

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL : MDL No. 2804
PRESCRIPTION OPIATE :
LITIGATION : Case No. 17-md-2804
:
APPLIES TO ALL CASES : Hon. Dan A. Polster
:
:

HIGHLY CONFIDENTIAL

SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

- - - -

DECEMBER 20, 2018

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VIDEOTAPED DEPOSITION OF JOSEPH EDWARD MILLWARD,
taken pursuant to notice, was held at Marcus &
Shapira, One Oxford Center, 35th Floor, Pittsburgh,
Pennsylvania 15219, by and before Ann Medis,
Registered Professional Reporter and Notary Public in
and for the Commonwealth of Pennsylvania, on
Thursday, December 20, 2018, commencing at 9:07 a.m.

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P R O C E E D I N G S

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THE VIDEOGRAPHER: We are now on the record. My name is Chris Ratano. I'm the videographer for Golkow Litigation Services. Today's date is December 20, 2018, and the time is approximately 9:07.

This video deposition is being held in Pittsburgh, PA at Marcus & Shapira, LLP, One Oxford Centre, 35th Floor, in the matter of National Prescription Opiate Litigation, MDL No. 2804, Case No. 17-md-2804, United States District Court, Northern District of Ohio, Eastern Division.

The deponent today is Joseph Millward.

Will counsel please identify themselves for the record.

MR. HUDSON: Ty Hudson of Wagstaff & Cartmell for plaintiffs.

MR. BARTON: Eric Barton, Wagstaff & Cartmell, for the plaintiffs.

MR. SCHACK: Lou Schack from Reed Smith for AmerisourceBergen.

MR. SCHWAB: Tom Schwab from Pietragallo. I represent Cardinal Health.

1 MS. CHARLES: Amber Charles from
2 Covington & Burling representing McKesson
3 Corporation.

4 MR. BARNES: Robert Barnes, Marcus &
5 Shapira, HBC.

6 MR. KOBRIN: Joshua Kobrin from Marcus &
7 Shapira. I also represent HBC.

8 THE VIDEOGRAPHER: The court reporter
9 today is Ann Medis, and she will now please swear
10 in the witness.

11 JOSEPH E. MILLWARD,
12 having been first duly sworn, was examined

13 and testified as follows:

14 EXAMINATION

15 BY MR. HUDSON:

16 Q. Good morning, sir. Could you please
17 state your name for the record.

18 A. Joseph Edward Millward.

19 Q. And, Mr. Millward, my name is Ty Hudson,
20 and I represent several of the plaintiffs in this
21 matter.

22 Where do you currently reside?

23 A. Erie, Pennsylvania.

24 Q. And you are a former employee of Giant
25 Eagle?

1 A. I am.

2 Q. And Giant Eagle owns HBC Service
3 Company; is that right?

4 A. Correct.

5 Q. And are you represented by counsel here
6 today?

7 A. I am.

8 Q. And are Mr. Barnes and Josh your
9 attorneys?

10 A. Yes, they are.

11 MR. HUDSON: And, Josh, I apologize for
12 mispronouncing your last name.

13 BY MR. HUDSON:

14 Q. And are they paying for your services
15 here today or is HBC?

16 A. HBC.

17 Q. Have you had your deposition taken
18 before?

19 A. Yes.

20 Q. How many times?

21 A. Once.

22 Q. And what was the subject matter of the
23 litigation?

24 A. It was an employment matter.

25 Q. Were you a party to the matter?

1 A. Yes.

2 Q. Personally, or was Giant Eagle a party
3 to the matter?

4 A. Giant Eagle was a party.

5 Q. So you weren't personally named in the
6 lawsuit?

7 A. Oh, correct; correct. I'm sorry.

8 Q. No problem. I just want to make sure
9 we're on the same page.

10 Well, for this deposition, let's just make
11 sure that we've got the ground rules. I know
12 you've gone through this once before, but just to
13 be sure.

14 I'm going to be asking questions. You're
15 going to be providing answers. I would ask,
16 unless your counsel instructs you not to answer,
17 that you answer my questions.

18 Is that fair?

19 A. Understood.

20 Q. Second, you are under oath as if we were
21 in a courtroom in front of a judge and a jury.

22 Do you understand that?

23 A. I do.

24 Q. And if you answer my question, I'm going
25 to assume that you understand it. A different way

1 to say that is: If you don't understand my
2 question, will you just let me know so I can
3 rephrase it?

4 A. Absolutely.

5 Q. And you're doing a good job of this, but
6 the court reporter needs to take down audible
7 answers.

8 So you know that; right?

9 A. I understand.

10 Q. And, lastly, if you need to take a break
11 at any time, just let me know, and we'll go off
12 the record. All I would ask is that you answer
13 any pending questions.

14 Is that fair?

15 A. Understood.

16 Q. You graduated from the University of
17 Pennsylvania School of Pharmacy; is that right?

18 A. University of Pittsburgh.

19 Q. University of Pittsburgh -- I'm sorry --

20 A. Yeah.

21 Q. -- School of Pharmacy? And that was in
22 1995?

23 A. That is correct.

24 Q. Any postgraduate work?

25 A. No.

1 Q. What did you do after you graduated from
2 pharmacy school?

3 A. I worked for a company called Option
4 Care, which was a home infusion pharmacy, in
5 Johnstown, Pennsylvania.

6 Q. What does home infusion pharmacy mean?

7 A. So at the pharmacy we would do home
8 intravenous therapy. So facilitating earlier
9 discharges out of the hospital for patients to
10 finish their IV antibiotic, IV chemotherapy, total
11 parenteral nutrition, pain management, hydration,
12 all intravenous, working with nurses employed or
13 nursing agencies.

14 Q. And how long were you with that company?

15 A. From '95 to 1997.

16 Q. And what was your role?

17 A. I was the pharmacist and then pharmacy
18 manager.

19 Q. Did you deal with controlled substances
20 in that role?

21 A. Yes, we did.

22 Q. Did you have any training or
23 experience -- did you obtain any training in that
24 role with complying with the Controlled Substances
25 Act?

1 A. The training was through pharmacy school
2 and our law classes to prepare us for meeting the
3 regulatory requirements.

4 Q. In part of your schooling, did you cover
5 the Controlled Substances Act?

6 A. We certainly did.

7 Q. Did you cover the Controlled Substances
8 Act provisions that relate to manufacturers,
9 distributors, or dispensers?

10 A. We covered the Controlled Substances Act
11 in its full scope as part of it.

12 Q. Was the focus on the obligations of
13 pharmacists?

14 A. You're going way back. So I would say
15 it covered the Act focused with pharmacy's role,
16 certainly.

17 Q. Did you take any business classes in
18 pharmacy school that focused on the requirements
19 of manufacturers or distributors under the
20 Controlled Substances Act?

21 MR. KOBRIN: Object to form.

22 THE WITNESS: No.

23 BY MR. HUDSON:

24 Q. In 1997, you left that company; right?

25 A. Correct.

1 Q. What did you do next?

2 A. I married a girl from Erie and relocated
3 to Erie, Pennsylvania, Fairview actually, and
4 started working as a pharmacy manager at a
5 Rite-Aid pharmacy.

6 Q. And that was a -- that was a Rite-Aid
7 pharmacy in Erie, Pennsylvania?

8 A. Union City was the actual town, just a
9 little town outside of Erie.

10 Q. And how long did you work at that
11 pharmacy?

12 A. Until about 1999. And then I was
13 transferred into a Rite-Aid store in Erie.

14 Q. And then how long did you stay at that
15 store?

16 A. Until 2001, approximately September.

17 Q. So from 1997 to 1999, was your role as a
18 pharmacist at a particular pharmacy?

19 A. Correct.

20 Q. And then from 1999 to 2001, was your
21 role, again, as a pharmacist at a particular
22 pharmacy?

23 A. It was.

24 Q. And then in 2001, what was your new
25 role?

1 A. I was promoted to pharmacy district
2 manager.

3 Q. And how long did you remain in that
4 role?

5 A. Until approximately September 2006.

6 Q. And what happened in September 2006?

7 A. I was promoted to district manager.

8 Q. And how long did you stay in the role as
9 district manager?

10 A. Until I left Rite-Aid, December of 2007.

11 Q. So if we go back to the 2001 to 2006
12 time period, describe for me what your role was as
13 a pharmacy district manager for Rite-Aid.

14 A. So as a pharmacy district manager for
15 Rite-Aid, I had responsibility for the pharmacy
16 P & L, pharmacy operations of the 24 to 26
17 Rite-Aid locations that were in my district,
18 involving training, making sure that they were
19 executing to company standards and adhering to
20 policies and procedures.

21 Q. In your role as a pharmacy district
22 manager, did you have any responsibility for
23 designing or creating policies or procedures?

24 A. No.

25 Q. Did you have -- in your role as pharmacy

1 district manager, did you play any role in
2 adhering to the requirements of the suspicious
3 order monitoring requirements of the Controlled
4 Substances Act?

5 MR. KOBRIN: Object to form.

6 THE WITNESS: The -- from the suspicious
7 order monitoring, no. That would have been
8 handled at the distribution level, not the retail
9 level.

10 BY MR. HUDSON:

11 Q. In your role as a pharmacy district
12 manager at Rite-Aid, did you have any knowledge of
13 the requirements of the suspicious order
14 monitoring system, any of those requirements under
15 the Controlled Substances Act?

16 MR. KOBRIN: Object to form.

17 THE WITNESS: Can you be more specific,
18 please?

19 BY MR. HUDSON:

20 Q. Sure. In your role as a pharmacy
21 district manager, did you understand that the
22 Controlled Substances Act included specific
23 requirements for manufacturers and distributors to
24 monitor suspicious orders of controlled
25 substances?

1 MR. KOBRIN: Object to form.

2 THE WITNESS: That was covered in
3 pharmacy school in the -- in the law class, as
4 stated previously.

5 In the day-to-day operation, the role of the
6 pharmacy district manager was execution of the --
7 making sure the individual pharmacies were
8 compliant with the rules and regulations under the
9 Controlled Substances Act, as well as the state
10 boards of pharmacy.

11 BY MR. HUDSON:

12 Q. In your role though as the pharmacy
13 district manager, did you gain any knowledge about
14 the requirements for distributors to monitor
15 suspicious orders under the Controlled Substances
16 Act?

17 MR. KOBRIN: Object to form.

18 THE WITNESS: As a pharmacy district
19 manager, no. That was not in play.

20 BY MR. HUDSON:

21 Q. And did you gain any knowledge as a
22 district manager?

23 A. No.

24 Q. So is it fair to say that when you left
25 Rite-Aid in 200- -- December of 2007, any

1 knowledge that you had about the requirements for
2 distributors in terms of monitoring suspicious
3 orders under the Controlled Substances Act was
4 acquired while in pharmacy school or law classes?

5 MR. KOBRIN: Object to form.

6 THE WITNESS: Correct. As it was not
7 part of the job requirement, did not deal with
8 that aspect.

9 BY MR. HUDSON:

10 Q. Let's talk then more specifically about
11 what knowledge you acquired in pharmacy school and
12 law classes about suspicious order monitoring
13 system requirements.

14 Can you be more specific about the knowledge
15 that you gained?

16 MR. KOBRIN: Object to form.

17 THE WITNESS: We would have covered or
18 we did cover the Controlled Substances Act as part
19 of the curriculum.

20 BY MR. HUDSON:

21 Q. Can you recall any specific classes that
22 you took that did a deeper dive specific to the
23 requirements of distributors under the Controlled
24 Substances Act to monitor suspicious orders?

25 MR. KOBRIN: Object to form.

1 THE WITNESS: There were no specific
2 classes to that curriculum, to that part, unique
3 to that.

4 BY MR. HUDSON:

5 Q. As you sit here today, can you
6 describe -- and I know it's difficult because it's
7 been a number of years.

8 But can you describe what you understood from
9 pharmacy school and your law classes about the
10 requirements of distributors to monitor suspicious
11 orders under the Controlled Substances Act?

12 MR. KOBRIN: Are you asking what he
13 understood --

14 THE WITNESS: 23 years ago?

15 MR. KOBRIN: -- during that time or
16 today?

17 MR. HUDSON: Right.

18 BY MR. HUDSON:

19 Q. As you exited pharmacy school, do you
20 have any recollection of what you understood in
21 terms of the requirements of a distributor to
22 monitor suspicious orders under the Controlled
23 Substances Act?

24 MR. KOBRIN: Object to form.

25 THE WITNESS: I don't have specific

1 recollection of that from 24 years ago.

2 BY MR. HUDSON:

3 Q. I understand.

4 And to the best of your recollection, do you
5 have any memory of taking any classes that went
6 into any of the specifics of what was required of
7 distributors to monitor suspicious orders of
8 controlled substances?

9 MR. KOBRIN: Object to form.

10 THE WITNESS: There were no specific
11 classes distributor-focused.

12 BY MR. HUDSON:

13 Q. Then in December of 2007, did you leave
14 Rite-Aid to join Giant Eagle?

15 A. I did.

16 Q. And at Giant Eagle, what role did you
17 assume?

18 A. Pharmacy district leader.

19 Q. And at that time, was Giant Eagle a
20 regional supermarket chain?

21 A. Yes.

22 Q. And just describe, if you could, what
23 your role was as a pharmacy district leader.

24 A. The role was parallel to the role at
25 Rite-Aid in that, again, responsible for the

1 pharmacy profit and loss; for the execution of
2 initiatives; making sure the pharmacies were
3 compliant through audit checks of whether it was
4 state board or DEA; responsible for the
5 recruiting, on-boarding and training plans for
6 pharmacists and supporting them in what other
7 issues that they needed.

8 Q. And you remained in your role as a
9 pharmacy district leader for about three years, a
10 little less than three years?

11 A. A little less, correct.

12 Q. December of 2007 to October of 2010?

13 A. Correct.

14 Q. Does that sound right?

15 A. That is correct.

16 Q. What district did you cover?

17 A. My district was Youngstown to -- in
18 Ohio. So I had stores in Youngstown, Austintown,
19 north to as far west as Madison, Ohio, east
20 through Erie, and across Interstate 80 to DuBois
21 would probably be the -- DuBois, Pennsylvania --
22 the furthest east.

23 Q. Did you cover all of the pharmacies that
24 were located in Ohio?

25 A. No; just that subset.

1 Q. What other districts were located in
2 Ohio at that time, if you can recall, or how many
3 other pharmacy district leaders were there that
4 covered stores in Ohio at that time?

5 A. Sure. There were three other pharmacy
6 district leaders in Ohio and three other in
7 Pennsylvania.

8 Q. So seven total pharmacy district leaders
9 at that time?

10 A. Correct.

11 Q. And did that change between when you
12 started in 2007 and then shifted roles towards the
13 end of 2010?

14 A. I believe seven was maintained.

15 Q. And how many pharmacists reported to you
16 in your district?

17 A. I don't remember the exact number.

18 Q. Any ballpark?

19 A. Approximately 24 stores. But the exact
20 number of pharmacists, I don't remember.

21 Q. Is there sort of an average or what's
22 typical of how many pharmacists were in each
23 store?

24 A. So part of Rite-Aid, the stores that I
25 had had between two pharmacists to four full-time

1 pharmacists. So counting part-timers, it may be
2 closer to -- it works out -- let me do the math
3 real quick. It's early. Maybe 90.

4 Q. 90 to a hundred?

5 A. Yeah. Yeah. Ballpark it.

6 Q. Sure. At the time you were a pharmacy
7 district leader, to whom at Giant Eagle did you
8 report?

9 A. I reported to Anthony Mollica.

10 Q. What was his title?

11 A. He was the vice president of pharmacy
12 operations, I believe, although his role -- his
13 title then may have been different. It may have
14 changed.

15 Q. And was that true for the three, little
16 less than three years that you were pharmacy
17 district leader the entire time that you reported
18 to Mr. Mollica?

19 A. I did.

20 Q. Did he at some point leave Giant Aid --
21 I mean Giant Eagle? Combining Rite-Aid...

22 A. Yes; yes, he did.

23 Q. And do you know when that occurred?

24 A. I don't know the exact day or exact day
25 or month. In ballpark, it was maybe '14-ish, '13,

1 '14. I don't recall off the tiptop of my head.

2 Q. Sure. Do you recall who replaced him?

3 A. Ultimately, it was Greg Carlson, was
4 named as the vice president of pharmacy
5 operations.

6 Q. And to the best of your recollection,
7 that was in 2014?

8 A. Yeah. Actually, 2014 sounds about
9 right.

10 Q. At the time that you were a pharmacy
11 district leader, did you have any involvement with
12 designing or creating any policies or procedures
13 to comply with the Controlled Substances Act?

14 A. I did not have any role in creating
15 policies.

16 Q. At the time you were a pharmacy district
17 leader, did you gain any familiarity with the
18 requirements of the Controlled Substances Act that
19 applied to distributors of opioids?

20 MR. KOBRIN: Object to form.

21 THE WITNESS: As a pharmacy district
22 leader, no, I did not deal with that aspect.

23 BY MR. HUDSON:

24 Q. At the time you were a pharmacy district
25 leader, did you have any knowledge of whether

1 Giant Eagle or HBC had a suspicious order
2 monitoring program?

3 MR. KOBRIN: Object to form.

4 BY MR. HUDSON:

5 Q. Or system.

6 MR. KOBRIN: Same objection.

7 THE WITNESS: Yeah. I don't recall --

8 BY MR. HUDSON:

9 Q. I mean, to your --

10 A. -- policies. I mean, I didn't -- yeah.
11 I don't recall the policies that were in place for
12 suspicious order monitoring for HBC.

13 BY MR. HUDSON:

14 Q. To the best of your recollection, is it
15 fair to say that Giant Eagle and HBC did not have
16 a manual or a book where you could go and see what
17 suspicious order monitoring system existed for the
18 company?

19 MR. KOBRIN: Object to form.

20 THE WITNESS: I can't speak to that as I
21 was not in that role.

22 BY MR. HUDSON:

23 Q. At the time that you were a pharmacy
24 district leader, did you know that the Controlled
25 Substances Act required a registrant who was

1 distributing controlled substances to design and
2 operate a suspicious order monitoring program?

3 MR. KOBRIN: Object to form.

4 THE WITNESS: As we stated earlier.

5 BY MR. HUDSON:

6 Q. So you knew that that requirement
7 existed --

8 A. For all distributors.

9 Q. Right. And, again, up through the point
10 in time that you were a pharmacy district leader
11 at Giant Eagle, any knowledge that you had of that
12 was derived from your time in pharmacy school and
13 law classes; correct?

14 MR. KOBRIN: Object to form.

15 THE WITNESS: I'd say that's fair.

16 BY MR. HUDSON:

17 Q. At the time that you were a pharmacy
18 district leader, did you understand that Giant
19 Eagle had a separate company called HBC Service
20 Company?

21 MR. KOBRIN: Object to form.

22 THE WITNESS: We knew -- yes. I know of
23 H- -- yeah, absolutely. HBC was the generic
24 warehouse. Whether it was a separate company or
25 not is -- a separate entity, is that what you're

1 referring to?

2 BY MR. HUDSON:

3 Q. Yes, yeah. At the time that --

4 A. Okay.

5 Q. At the time you were a pharmacy district
6 leader, what was your understanding of HBC or HBC
7 Service Company?

8 A. Sure. That was our -- that HBC Service
9 was the generic distribution center. So it was an
10 in-house distribution facility.

11 Q. When you say "generic," what do you mean
12 by that?

13 A. The drug mix that we would see or that
14 was carried by that facility was focused on
15 generic legend drugs, and I believe -- yeah,
16 generic legend drugs --

17 Q. So generic --

18 A. -- to the best of my knowledge.

19 Q. Sure.

20 A. So from lisinopril to metformin.

21 Q. You mean generic drugs as opposed to
22 brand drugs?

23 A. Correct.

24 Q. And that HBC distribution facility, do
25 you know when it began operations?

1 A. It was before I started with the
2 company. So it was already up and running by the
3 time I transitioned over.

4 Q. At the time that you were a pharmacy
5 district leader, did you learn that that facility
6 had obtained a license to distribute certain
7 controlled substances?

8 MR. KOBRIN: Object to form.

9 THE WITNESS: We knew -- I knew that the
10 pharmacy or that distribution center was able to
11 distribute Schedules IIIs, IVs, and Vs, but no
12 Schedule II controlled substances, based on the
13 ordering system and what the stores received.

14 BY MR. HUDSON:

15 Q. And at the time that you were a pharmacy
16 district leader, did you make distinctions between
17 Schedule II and Schedule III controlled
18 substances?

19 A. How do you mean?

20 Q. Well, I mean, you've alluded that there
21 were different ordering systems; right?

22 A. Sure.

23 Q. So did you understand that the
24 Schedule II controlled substances were being
25 shipped in from McKesson or Anda?

1 A. Absolutely.

2 Q. And --

3 A. Via the 222 form, triplicate form.

4 Q. And what is the 222 form?

5 A. That's the DEA's form to order

6 Schedule II controlled substances.

7 Q. And at the time you were a pharmacy
8 district leader, did you understand that in 2009,

9 HBC started to act as a distributor for

10 Schedule III controlled substances?

11 A. In 2009, I was with Rite-Aid. So, no, I
12 did not.

13 Q. Right. Did you learn at some point in
14 your role as a pharmacy district leader, though,
15 that HBC had begun to distribute Schedule III
16 controlled substances?

17 A. When I on-boarded with Giant Eagle, so
18 in December, and then through my training in the
19 subsequent -- following January, yes, I knew that
20 Schedule IIIs, IVs, and Vs could come from HBC.

21 Q. At the time you were a pharmacy district
22 leader, did you ever visit the HBC warehouse?

23 A. Actually, can I -- I apologize. Can I
24 go back to that?

25 Q. Sure.

1 A. You said 2009. So, yes, I was already
2 with Giant Eagle. I apologize.

3 Q. That's okay.

4 A. Yes. I knew that we did receive
5 Schedule IIIs, IVs, and Vs then.

6 Q. Just so we clean up the record --

7 A. Sure.

8 Q. -- between December of 2007 and 2010,
9 when you were a pharmacy district leader, there
10 came a time in 2007 when you learned that HBC was
11 beginning to act as a distributor for Schedule III
12 controlled substances?

13 MR. KOBRIN: Object to form.

14 You said 2007.

15 BY MR. HUDSON:

16 Q. I'm saying 2009 --

17 A. 2009.

18 Q. -- you learned --

19 A. Correct.

20 Q. -- that HBC became a distributor for
21 controlled substances.

22 I'm not sure I cleaned up the record, but I
23 think we're on the same page.

24 At the time you were a pharmacy district
25 leader, did you ever visit the HBC warehouse?

1 A. No.

2 Q. So in October of 2010, you were promoted
3 to senior manager, pharmacy quality and
4 compliance?

5 A. That's correct.

6 Q. And did you remain in that role until
7 March of 2016?

8 A. That is correct.

9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]

15 Now, I had been commuting from Erie to
16 Pittsburgh four days a week, so 260 miles a day
17 the round trip. And it was an -- and had been on
18 the road, as we discussed, since 2001 as pharmacy
19 district leader and the roles. And it was an
20 opportunity to go from 260 miles a day to 18.
21 And, actually, I couldn't be happier for it.

22 Q. What have you done since leaving Giant
23 Eagle?

24 A. So I am a pharmacy manager again at a
25 Rite-Aid location in Erie.

1 Q. Is it one of the locations that you were
2 the manager at back in the '90s?

3 A. No.

4 Q. Different location?

5 A. Yeah, different locations.

6 Q. But you've got no -- you're just located
7 in a single store now?

8 A. Correct. I'm a pharmacy manager again.

9 Q. Is it a similar role to the role that
10 you had in the two different Rite-Aid stores --

11 A. It is.

12 Q. -- from '97 to '99 --

13 A. It is.

14 Q. -- and then '99 to 2001?

15 A. That is -- that is correct.

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

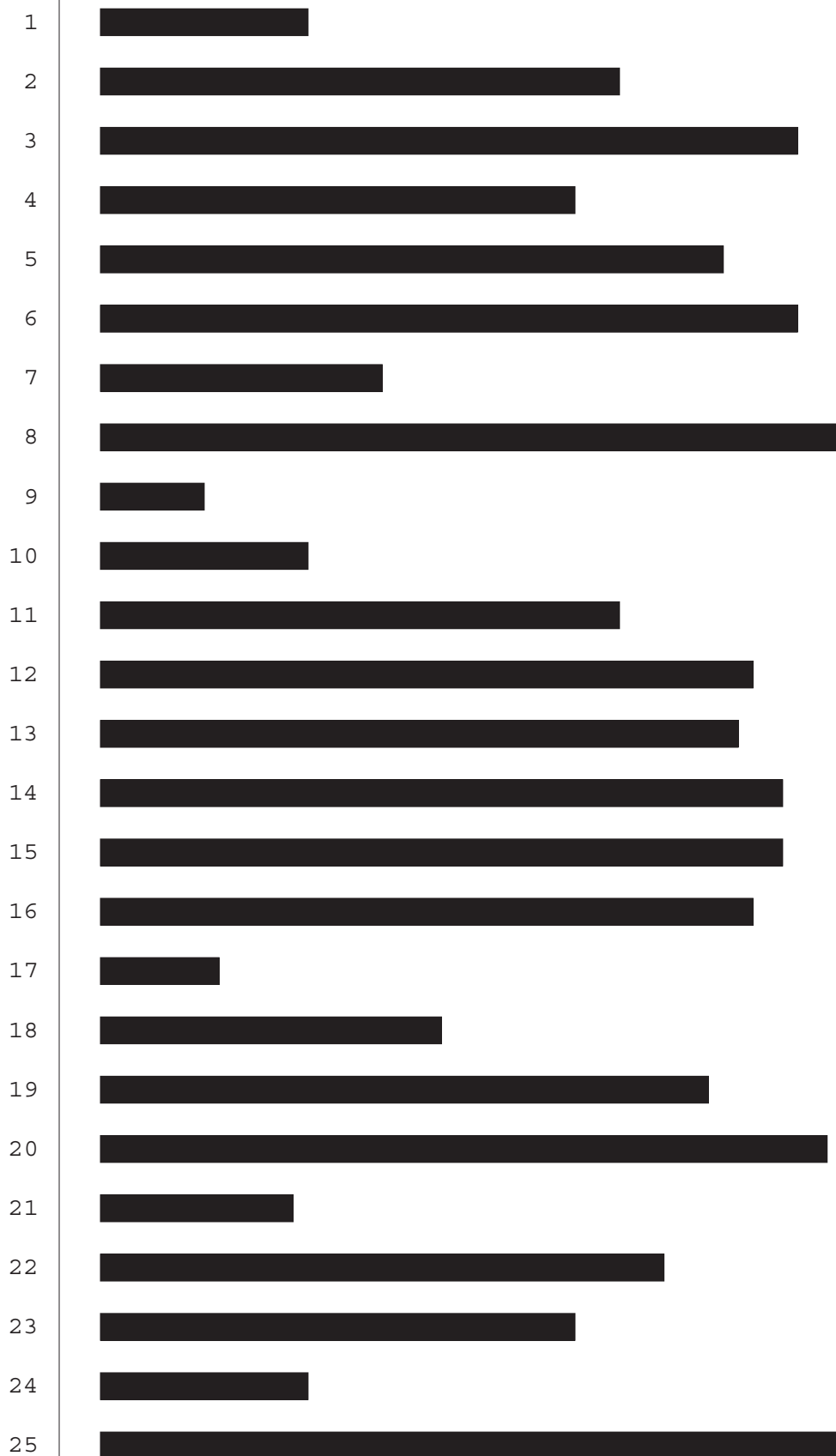
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BY MR. HUDSON:

Q. I want to focus then on your position as
the senior manager of compliance.

Were you the company's top compliance
officer?

MR. KOBRIN: Object to form.

THE WITNESS: No. For the company, no.

BY MR. HUDSON:

Q. Who was the top compliance officer?

MR. KOBRIN: Object to form.

Are you talking about when he started or --

THE WITNESS: Yeah. What timeframe?

1 BY MR. HUDSON:

2 Q. In October of 2010, when you assumed the
3 role of senior manager of compliance.

4 A. Good gosh. Perhaps -- so the top
5 corporate compliance officer, the only name I can
6 think of --

7 MR. KOBRIN: Don't speculate.

8 THE WITNESS: Yeah. I don't remember
9 the exact name of the person who was in -- or if
10 that was his role, his title.

11 BY MR. HUDSON:

12 Q. Can you recall the name of anyone who
13 was more senior to you in terms of a compliance
14 role at Giant Eagle?

15 A. On the legal side, in the legal
16 department, Rick Russell was the head of the
17 department, as the attorney.

18 Who else was in there? From HIPAA
19 compliance, it fell under Robbi Robinson.

20 I don't remember on top who was -- for the
21 whole company piece back then.

22 Q. When you assumed the role of senior
23 manager, did you have two different
24 responsibilities, one being pharmacy quality and
25 the other being compliance?

1 A. Correct.

2 Q. And did you have two separate teams for
3 those two separate roles?

4 A. I had two people that reported to me,
5 one for each.

6 Q. And then did they have a team underneath
7 them?

8 A. No.

9 Q. Did they have anyone underneath them?

10 A. Nobody else reported to them.

11 Q. From October of 2010 to March of 2016,
12 were you the head compliance manager at Giant
13 Eagle focused on designing and operating policies
14 to comply with the Controlled Substance Act?

15 MR. KOBRIN: Object to form.

16 THE WITNESS: For the -- the initial
17 focus was on the retail pharmacies.

18 BY MR. HUDSON:

19 Q. In your role though from October of 2010
20 to March of 2016, just describe for me or list for
21 me every person who would be involved with
22 designing or operating a system to comply with the
23 Controlled Substances Act.

24 MR. KOBRIN: Object to form.

25 Within his group or the entire company?

1 MR. HUDSON: At Giant Eagle.

2 THE WITNESS: Oh, good heavens.

3 MR. KOBRIN: To the extent you can.

4 THE WITNESS: What's that?

5 MR. KOBRIN: To the extent you can.

6 THE WITNESS: Yeah. On the -- well, it
7 would involve the pharmacy IT group which, when I
8 started, would have fallen under Joe Mishanski,
9 and under him Shawn Voyten. Let's see. And then
10 their admin for that piece.

11 BY MR. HUDSON:

12 Q. So Shawn Voyten. And who was the other
13 person? I'm sorry.

14 A. The head of the pharmacy information
15 technology piece at the time was Joe Mishanski.

16 Q. And where were -- where were the --
17 where was the pharmacy IT group physically
18 located?

19 A. It was located in -- it was at the
20 corporate campus in a couple different buildings.

21 For policies and procedures with regard to
22 controlled substances, again, I was involved in
23 that, in creating policies along with George
24 Chunderlik.

25 In our policies and procedures group, where

1 we dealt with more than just controlled substances
2 but pharmacy quality policies as well, that
3 also -- that group involved Adrienne Anthony,
4 which I don't know her married name now. So she
5 was also my other person that reported to me on
6 the pharmacy quality side.

7 Steve Zubrow, which was Marcus & Shapira
8 counsel. Jane Barnes, who was internal risk
9 compliance for Giant Eagle, then later Mary
10 Gibson. And Rick Springer was part of that as
11 well. He provided the -- essentially, the
12 training modules, would create the training
13 modules.

14 Q. Tell me Rick's last name again.

15 A. Springer.

16 Q. Springer. And training modules for
17 what?

18 A. So computer-based training modules for
19 the pharmacists and pharmacy technicians to do in
20 the stores.

21 Q. Jane Barnes and Mary Gibson, those were
22 attorneys at Giant Eagle?

23 A. Correct. They were both internal
24 counsel.

25 Q. Anyone else?

1 A. In that room or that was in that
2 procedure meeting?

3 We tried to pull stakeholders in from the
4 other operational groups. So we may at times have
5 had one of the pharmacy project managers in there.
6 So that would have been Dominic Bertucci.

7 Let me think who else would have been
8 involved in policies and procedures with regard to
9 controlled substances.

10 In those monthly meetings, we would discuss
11 all types of policies that involved pharmacy.

12 MR. KOBRIN: I don't want you to get
13 into too much detail.

14 THE WITNESS: Okay.

15 MR. KOBRIN: You've already identified
16 that counsel were in those meetings and involved
17 in those meetings. So just be aware or cognizant
18 that you're not sharing privileged information.

19 BY MR. HUDSON:

20 Q. Did those monthly meetings occur during
21 the entire time that you were the senior manager
22 of compliance?

23 A. Shortly after starting there. Starting
24 in that role I should say. Qualify that.

25 Q. So when you initially started in the

1 role of senior manager of compliance, you didn't
2 have monthly meetings, but at some point shortly
3 thereafter you began to; is that fair?

4 A. Yeah. I can't say what they did before.
5 The role was newly created. When I came, it
6 was -- I promoted into a newly created role.

7 (HBC-Millward Exhibit 1 was marked.)

8 BY MR. HUDSON:

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16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]

24 Q. Before assuming the role as Giant
25 Eagle's head of -- or Giant Eagle's role as senior

1 manager of compliance, did you have any prior work
2 experience in a compliance role?

3 MR. KOBRIN: Object to form. Asked and
4 answered.

5 THE WITNESS: No specific education or
6 training beyond that.

7 BY MR. HUDSON:

8 Q. At the time that you assumed your
9 compliance role at Giant Eagle, did you obtain any
10 training to prepare you for your new role in
11 compliance?

12 MR. KOBRIN: Object to form.

13 THE WITNESS: There were no classes or
14 anything more than continuing education programs
15 as part of maintaining a valid and active pharmacy
16 license in the State of Pennsylvania.

17 BY MR. HUDSON:

18 Q. And you testified that your position was
19 a newly created position; correct?

20 A. That is correct.

21 Q. At the time that you assumed the role of
22 senior manager of compliance, were you tasked with
23 monitoring the company's policies and procedures
24 that were in place as it relates to the Controlled
25 Substances Act?

1 MR. KOBRIN: Object to form.

2 THE WITNESS: Can you repeat the
3 question, please?

4 BY MR. HUDSON:

5 Q. Sure. At the time you assumed your
6 compliance role at Giant Eagle, were you tasked
7 with monitoring the company's policies and
8 procedures that related to the Controlled
9 Substances Act?

10 MR. KOBRIN: Same objection.

11 THE WITNESS: I was responsible for
12 reviewing the policies and procedures for all
13 legal compliance beyond just the CSA, to include
14 state board of pharmacy, that the pharmacies were
15 up to date and our policies were in line and
16 complying.

17 BY MR. HUDSON:

18 Q. Could you estimate, during the time that
19 you were the senior manager of compliance at Giant
20 Eagle, approximately what percentage of your time
21 related to compliance with the Controlled
22 Substances Act?

23 A. I couldn't give a percent specific.

24 Q. Even a ballpark?

25 A. I don't think it would be an accurate

1 number to say a definitive number.

2 Q. Do you feel like it was a big part of
3 your role, a small part of your role? Anything
4 you could say to describe what compliance with the
5 Controlled Substances Act --

6 MR. KOBRIN: Object to form. He's
7 already said it would be inaccurate to assess his
8 percentage.

9 THE WITNESS: There's no way to
10 accurately say. The needs of the day and the
11 issues or legislative changes would kind of
12 dictate the -- and the company initiatives would
13 kind of dictate the direction and energy spent.

14 So to give an accurate time over the -- or an
15 accurate percentage, I'm not able to box it in
16 that way.

17 BY MR. HUDSON:

18 Q. Between 2011 and 2016, do you have a
19 recollection of any legislative changes or company
20 initiative changes that occurred as they relate to
21 the Controlled Substances Act?

22 A. Sure, there were.

23 MR. KOBRIN: Object to form.

24 THE WITNESS: There were a number of
25 changes. The rescheduling of hydrocodone from a

1 Schedule III to a Schedule II, that was when?
2 October of '14-ish. I apologize. I don't
3 remember the exact date that that occurred.

4 Ohio made changes to their OARRS, for
5 example, to where -- I believe it was unscheduled
6 at the time, but Tramadol had to be reported in
7 before it was -- before it became a Schedule --
8 controlled substance. So just two examples.

9 BY MR. HUDSON:

10 Q. Any other examples you can think of?

11 A. There were tech certification
12 requirements from West Virginia. Sudafed
13 requirement changes for reporting, rolling out the
14 meth check, for example, for pseudoephedrine in
15 the various states and the keeping up with those
16 requirements.

17 But I don't think I can list them all sitting
18 here almost three years from then.

19 Q. Sure. No, I understand. I'm just
20 trying to get an understanding --

21 A. Sure.

22 Q. -- of what some of those would be.

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]



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Q. When you say "GERX," is that how you refer to the -- is that the Giant Eagle Rx distribution center?

6

7

A. I believe that's what they refer to it now.

8

Q. Okay.

9

10

11

12

A. At the time it was the pharmacy distribution inside of what I believe was FFM, so Fresh Foods something. It's AFE. It's an acronym for everything.

13

Q. Explain that to me, if you could.

14

15

It was a distribution facility within Fresh Foods?

16

MR. KOBRIN: Object to form.

17

Is that a question?

18

THE WITNESS: Yeah. Can you please --

19

what do you -- can you ask that again?

20

BY MR. HUDSON:

21

Q. When GERX first opened, how would you

22

describe that?

23

A. It was a -- dedicated pharmacy

24

distribution centers within the structure of an

25

existing Giant Eagle distribution center, next to

1 a Giant Eagle central fill pharmacy. That was one
2 of the other initiatives.

3 Q. And how did the structure of the GERX
4 then change over time?

5 MR. KOBRIN: Object to form.

6 THE WITNESS: We'll GERX was -- we'll
7 call it GERX, because I didn't know it as GERX
8 then, in that timeframe. But we'll refer to it
9 from this point on.

10 BY MR. HUDSON:

11 Q. Okay.

12 A. It opened a month before I left, I
13 believe as we previously said, and initially, I
14 think, only distributing -- distributing
15 noncontrols first, I believe.

16 Q. After you left Giant Eagle, have you
17 maintained any knowledge base or do you know
18 anything about how the facility has operated since
19 you left?

20 A. No, no.

21 MR. KOBRIN: Do you want to take a
22 break? Are you doing all right?

23 THE WITNESS: I'm okay.

24 MR. KOBRIN: Ten minutes or so. Is that
25 all right with you, Ty?

1 MR. HUDSON: Sure.

2 BY MR. HUDSON:

3 Q. I want to just talk about a compliance
4 program now. Do you agree that a company handling
5 prescription drugs should have an effective
6 compliance program?

7 MR. KOBRIN: Object to form.

8 THE WITNESS: The regulations state that
9 in there. But under the CSA, it's spelled out
10 within the Controlled Substances Act as the
11 requirements for a distributor.

12 BY MR. HUDSON:

13 Q. I guess my question though is just more
14 general.

15 Do you agree that a company handling
16 prescription drugs needs an effective compliance
17 program?

18 MR. KOBRIN: Object to form.

19 THE WITNESS: I believe the company
20 handling prescription drugs has an obligation to
21 be compliant with the rules and regulations set
22 forth.

23 BY MR. HUDSON:

24 Q. Do you agree that the purpose of a
25 compliance program in a company is to have

1 policies and procedures that prevent the
2 organization and employees from breaking laws and
3 regulations?

4 MR. KOBRIN: Object to form.

5 THE WITNESS: Policies and procedures
6 are put in place to ensure that all agents of the
7 organization are compliant with laws, rules, and
8 regulations.

9 BY MR. HUDSON:

10 Q. Do you agree that an effective
11 compliance program should include establishing
12 procedures for documenting actions in writing to
13 show compliance with laws and regulations?

14 MR. KOBRIN: Object to form.

15 THE WITNESS: Restate the question.

16 BY MR. HUDSON:

17 Q. Do you agree that an effective
18 compliance program should include establishing
19 procedures for documenting actions in writing to
20 be able to show compliance with the law?

21 MR. KOBRIN: Object to form.

22 THE WITNESS: I believe that if it is
23 required by law to retain those documents, then
24 the program should be designed to retain the
25 documents as legally required.

1 BY MR. HUDSON:

2 Q. And if there isn't a legal requirement
3 to retain documents, then from a compliance
4 perspective, what would you do?

5 MR. KOBRIN: Object to form.

6 THE WITNESS: There's many aspects of
7 pharmacy that do have specific -- or that -- laws
8 that require documents to be retained for
9 prescribed amount of times -- or lengths of time.
10 Sorry.

11 And the compliance program must make sure
12 that those legal requirements are met.

13 BY MR. HUDSON:

14 Q. Do you agree it's easier to show
15 compliance with laws and regulations if a company
16 documents its actions in writing?

17 MR. KOBRIN: Object to form.

18 Easier to show to who?

19 MR. HUDSON: Just "Objection. Form"
20 please.

21 THE WITNESS: Yeah. Can you be more --

22 BY MR. HUDSON:

23 Q. Do you agree --

24 A. Can you restate that, please?

25 Q. Sure. Do you agree it is easier to show

1 compliance with laws and regulations if a company
2 documents its actions in writing?

3 MR. KOBRIN: Object to form.

4 THE WITNESS: Where they're required to
5 retain those documents, then yes.

6 BY MR. HUDSON:

7 Q. I'm just saying, in general, do you
8 agree that a company is going to have an easier
9 time showing it complied with the law if it
10 documents in writing the actions that it took?

11 MR. KOBRIN: Object to form.

12 THE WITNESS: To document or to show
13 compliance to whom?

14 BY MR. HUDSON:

15 Q. To anyone.

16 A. Again, I believe the compliance program
17 should be designed that it meets the requirements
18 for documentation.

19 Q. From a corporate perspective, in your
20 view as a nonlawyer, are there strategic reasons
21 to not retain documents and put them -- and put in
22 writing the actions that are being taken by the
23 company?

24 MR. KOBRIN: Object to form.

25 THE WITNESS: I don't think there's

1 any -- again, I'm not sure I follow where you're
2 leading there.

3 BY MR. HUDSON:

4 Q. I'm just saying: You were the senior
5 manager of compliance at Giant Eagle for about six
6 years; right? Five years?

7 A. Yeah; correct, correct.

8 Q. And what I'm saying is: During that
9 time, would you agree that from a compliance
10 perspective, it's going to be easier for Giant
11 Eagle to show it complied with the law if Giant
12 Eagle put the actions that it took in writing?

13 MR. KOBRIN: Object to form.

14 THE WITNESS: And that was through our
15 policies and procedures.

16 BY MR. HUDSON:

17 Q. Right. I guess what I'm trying to get
18 at is just, "yes" or "no," do you agree with the
19 idea that it's easier for Giant Eagle to show it
20 complied with the law if it puts in writing the
21 actions that it's taking?

22 MR. KOBRIN: Object to form.

23 THE WITNESS: And that would be correct,
24 why I would say yes, through the policies and
25 procedures.

1 BY MR. HUDSON:

2 Q. So in your time as the senior manager of
3 compliance, was one of the -- was one of the roles
4 that you undertook to make sure that there were
5 policies or procedures in place so that important
6 actions being taken at Giant Eagle were documented
7 in writing?

8 MR. KOBRIN: Object to form.

9 THE WITNESS: I don't recall doing any
10 policies and procedures beyond -- for document
11 retention. That would have been through the
12 corporate policy or through the -- yeah. Those
13 would have been above my area. That would have
14 encompassed all of the corporation, not just
15 exclusive to pharmacy.

16 Pharmacy would be required per the various
17 document retention requirements for the boards of
18 pharmacy, for example.

19 MR. KOBRIN: It's been about ten
20 minutes. Do you want to take a break now?

21 THE WITNESS: Yeah. Let's take a break.

22 THE VIDEOGRAPHER: 10:13. We're off the
23 video record.

24 (Recess from 10:13 a.m. to 10:30 a.m.)

25 THE VIDEOGRAPHER: 10:30. We're on the

1 video record.

2 BY MR. HUDSON:

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

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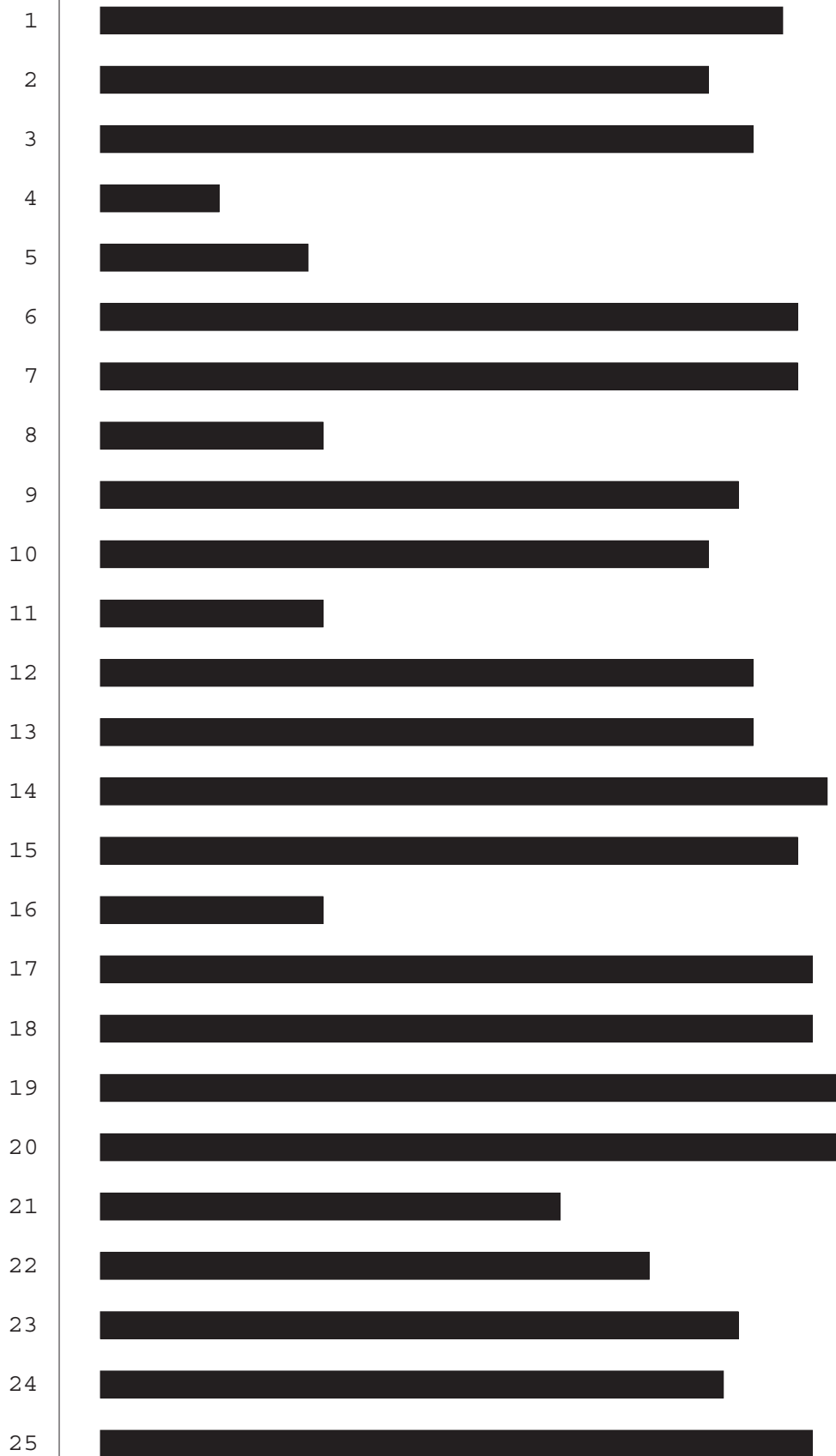


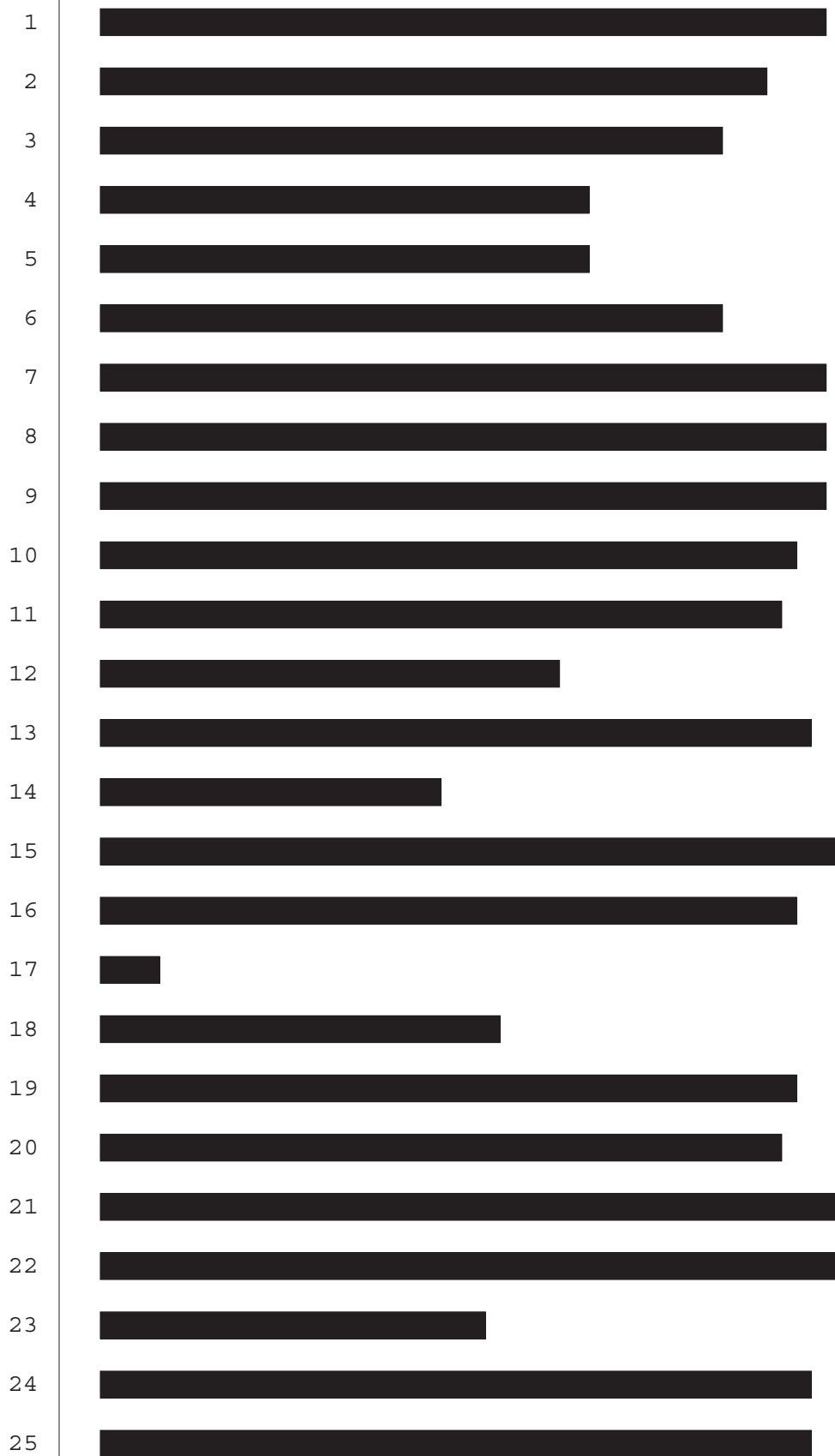




















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21 [REDACTED]

22 (HBC-Millward Exhibit 2 was marked.)

23 BY MR. HUDSON:

24 Q. Let me hand you what we've marked as
25 Exhibit 2. And Exhibit 2 --

1 MR. HUDSON: Our internal sticker is
2 P-GEN-10.

3 BY MR. HUDSON:

4 Q. And this is a CFR that we pulled from
5 the Department of Justice DEA website on diversion
6 control division.

7 Do you see there at the top Part 1301,
8 Registration of Manufacturers, Distributors and
9 Dispensers of Controlled Substances?

10 MR. KOBRIN: I just want to object on
11 the record real quick. This is only a small
12 section of what's a larger set of regulations, and
13 they are all interconnected and cross-reference
14 each other.

15 You can answer.

16 THE WITNESS: That's exactly what it
17 says at the top.

18 BY MR. HUDSON:

19 Q. So my focus is really on 1301.74(b). Do
20 you see that there?

21 A. Yes.

22 Q. "The registrant shall design and operate
23 a system to disclose to the registrant suspicious
24 orders of controlled substances. The registrant
25 shall inform the field division office of the

1 Administration in his area of suspicious orders
2 when discovered by the registrant. Suspicious
3 orders include orders of unusual size, orders
4 deviating substantially from a normal pattern, and
5 orders of unusual frequency."

6 Do you see that?

7 A. I do see that.

8 Q. And what I've done is I just created a
9 little bit of a demonstrative here. I just want
10 to know if you agree with this. That in terms of
11 complying with -- this is -- this provision that
12 we're talking about is the suspicious order
13 monitoring system or the SOMS obligation of the
14 Controlled Substances Act; correct?

15 MR. KOBRIN: Object to form.
16 Misrepresents both the regulation and the record.
17 BY MR. HUDSON:

18 Q. You can answer.

19 A. I'm sorry. Can you say that again?

20 Q. Sure. Do you agree that this section
21 that we've been looking at of 1301.74(b) is the
22 suspicious order monitoring system requirement of
23 the Controlled Substances Act?

24 MR. KOBRIN: Object to form. Same
25 objection.

1 THE WITNESS: 1301.74(b) is part of a
2 whole list of security and control requirements.
3 So it's one of the many listed ones in the other
4 parts of the regulation that distributors are
5 required to follow, dispensers.

6 BY MR. HUDSON:

7 Q. And can we agree though that this
8 section (b) is the suspicious order monitoring
9 system requirement?

10 MR. KOBRIN: Object to form.
11 Misrepresents the regulation.

12 THE WITNESS: Section (b) is the system
13 to disclose suspicious orders of controlled
14 substances, as it states.

15 BY MR. HUDSON:

16 Q. And can we refer to this as SOMS today?

17 MR. KOBRIN: Object to form.

18 BY MR. HUDSON:

19 Q. In other words, if we talk about the
20 requirements of this particular regulation, will
21 you understand that to mean the SOMS requirements?

22 MR. KOBRIN: So any time after this
23 point, when you refer to SOMS, you're establishing
24 you are only referring to Section 1301.74(b)?

25

1 MR. HUDSON: Correct.

2 MR. KOBRIN: That's all you're going to
3 be referring to when you refer to SOMS?

4 MR. HUDSON: Correct.

5 MR. KOBRIN: I just want you to make
6 sure that you're clear with the witness on that
7 because I don't know that --

8 MR. HUDSON: That's why I asked the
9 question.

10 MR. KOBRIN: I don't want him to get
11 confused.

12 MR. HUDSON: I appreciate it. Thank
13 you.

14 BY MR. HUDSON:

15 Q. Mr. Millward, from here forth, if we
16 refer to the SOMS requirement, will you understand
17 that I'm referring to the requirements of
18 Section 1301.74(b)?

19 A. I understand what you're saying, as the
20 regulation is read.

21 Q. Do you agree that, in fact, there are
22 federal regulations that do require distributors
23 to have a suspicious order monitoring system in
24 place?

25 MR. KOBRIN: Object to form.

1 THE WITNESS: A system to disclose
2 suspicious orders, is that what you're referring
3 there?

4 BY MR. HUDSON:

5 Q. Yes.

6 A. Then in that case, that is correct.

7 Q. If you look here on what we've got up
8 here on the screen, do you agree that HBC Service
9 Company had an obligation to design a system to
10 disclose to HBC suspicious orders of controlled
11 substances?

12 MR. KOBRIN: So the record establishes
13 that we're looking at a demonstrative that's not
14 been entered as an exhibit that summarizes the
15 subsection?

16 MR. HUDSON: Correct.

17 THE WITNESS: That's what you want him
18 to look at, not the reg. itself?

19 MR. HUDSON: Correct.

20 THE WITNESS: The display does show,
21 correct, that -- it says that HBC shall
22 essentially -- not essentially -- but they'll
23 operate a system to disclose suspicious orders of
24 controlled substance and copies and pastes the
25 list from the regs.

1 BY MR. HUDSON:

2 Q. So you agree that what we've got
3 displayed on the screen is consistent with the
4 wording and the obligation that's set forth in the
5 regulation itself?

6 MR. KOBRIN: Object to form.

7 THE WITNESS: Worded slightly different,
8 but correct.

9 BY MR. HUDSON:

10 Q. In substance, what's on the screen
11 accurately displays what the regulation requires;
12 is that fair?

13 MR. KOBRIN: Object to form.

14 THE WITNESS: Well, not the regulation
15 in the entirety. I mean, there's the other
16 security pieces that go along with having that
17 total scope of control. But for the subsection
18 (b), it lists the examples that are listed on the
19 regulation for unusual size, pattern and
20 frequency.

21 BY MR. HUDSON:

22 Q. So can we agree that between 2009 and
23 2016, HBC had an obligation to design a system to
24 disclose to HBC suspicious orders of controlled
25 substances?

1 A. I believe --

2 MR. KOBRIN: Object to form.

3 THE WITNESS: -- the Controlled
4 Substances Act prescribes that for distributors.

5 BY MR. HUDSON:

6 Q. And can we agree that HBC under the
7 Controlled Substances Act had an obligation to
8 operate a system to disclose to HBC suspicious
9 orders of controlled substances?

10 MR. KOBRIN: Object to form.

11 THE WITNESS: As a part of the other
12 security requirements set forth in the other
13 subsections of the regulation, that is correct.

14 BY MR. HUDSON:

15 Q. And can we agree that under the
16 Controlled Substances Act, suspicious orders
17 include orders of unusual size, orders deviating
18 substantially from a normal pattern and orders of
19 unusual frequency?

20 MR. KOBRIN: Object to form.

21 THE WITNESS: That correctly stated the
22 reg.

23 BY MR. HUDSON:

24 Q. Can we agree that HBC had an obligation
25 to inform the field division office of the

1 Administration in its area of suspicious orders
2 when discovered by HBC?

3 MR. KOBRIN: Object to form.

4 THE WITNESS: As also stated in the
5 regulation.

6 BY MR. HUDSON:

7 Q. So the answer is "yes"?

8 A. Correct.

9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]

20 MR. KOBRIN: He supposes that it was --
21 you're saying designing --

22 MR. HUDSON: Just let him answer the
23 question, please.

24 MR. KOBRIN: I would just like to
25 clarify.

1 MR. HUDSON: No. I don't need a
2 clarification. I've been patient. You can say,
3 "Objection. Form." There's a pending question.
4 I'd like him to answer it.

5 MR. KOBRIN: I just want to object that
6 it's not clear whether you're saying designing
7 between 2009 and 2016 or earlier.

8 MR. HUDSON: You can say, "Objection.
9 Form." That's fine.

10 MR. KOBRIN: I'd like to get it in the
11 record. That's all. I don't think I'm
12 interfering with your deposition.

13 MR. HUDSON: You are interfering with my
14 deposition because you're trying to clarify my
15 question. You can say, "Objection. Form." Then
16 I'll clarify my question if I think the form is
17 wrong.

18 MR. KOBRIN: He's struggling to give you
19 an answer. He's clearly confused by your
20 question.

21 MR. HUDSON: Do you want to coach
22 anymore?

23 MR. KOBRIN: I don't think I'm coaching
24 at all.

25 MR. HUDSON: Do you want to answer for

1 him? "Objection. Form" please.

2 THE WITNESS: Go ahead and restate your
3 question.

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

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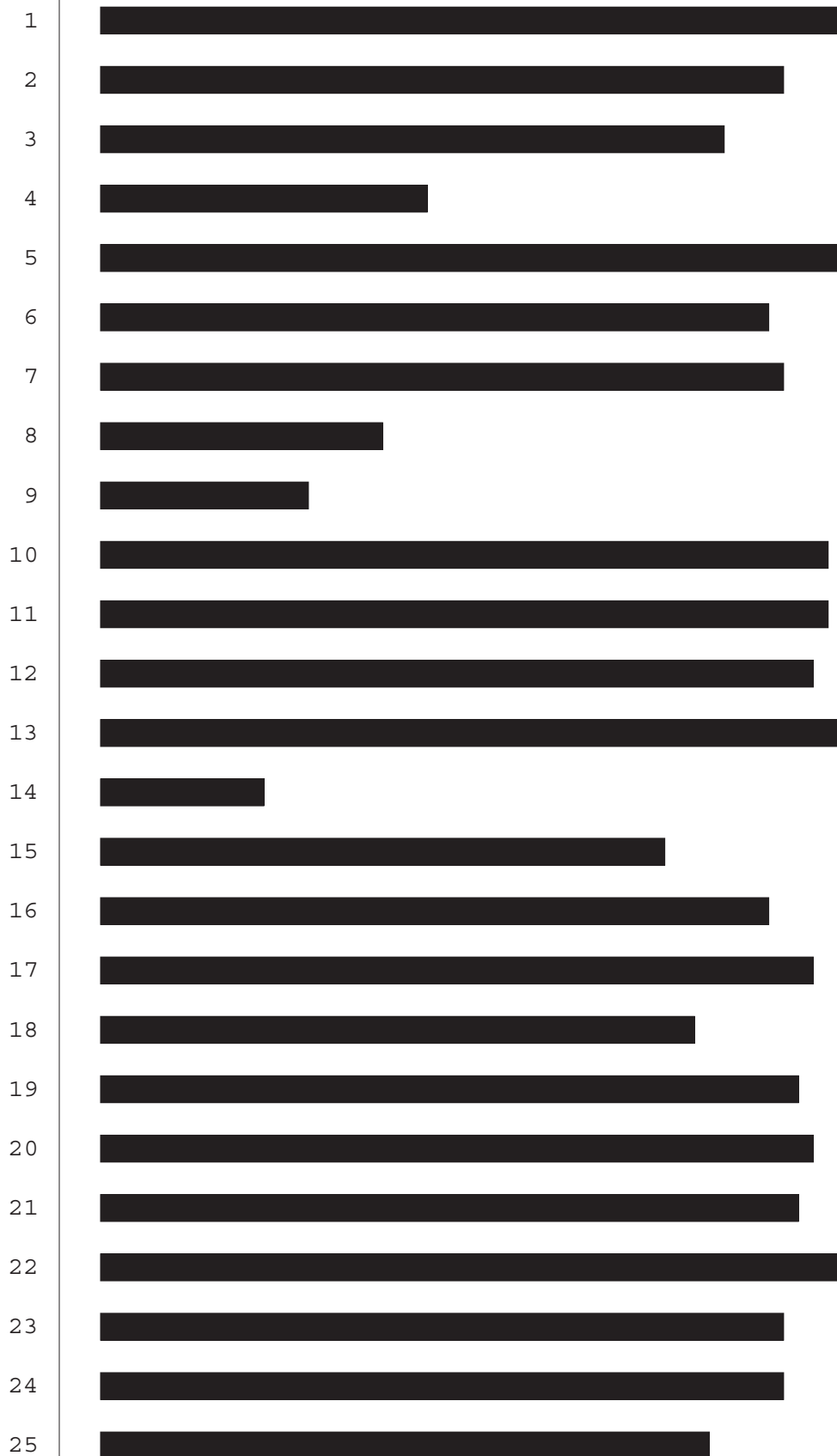
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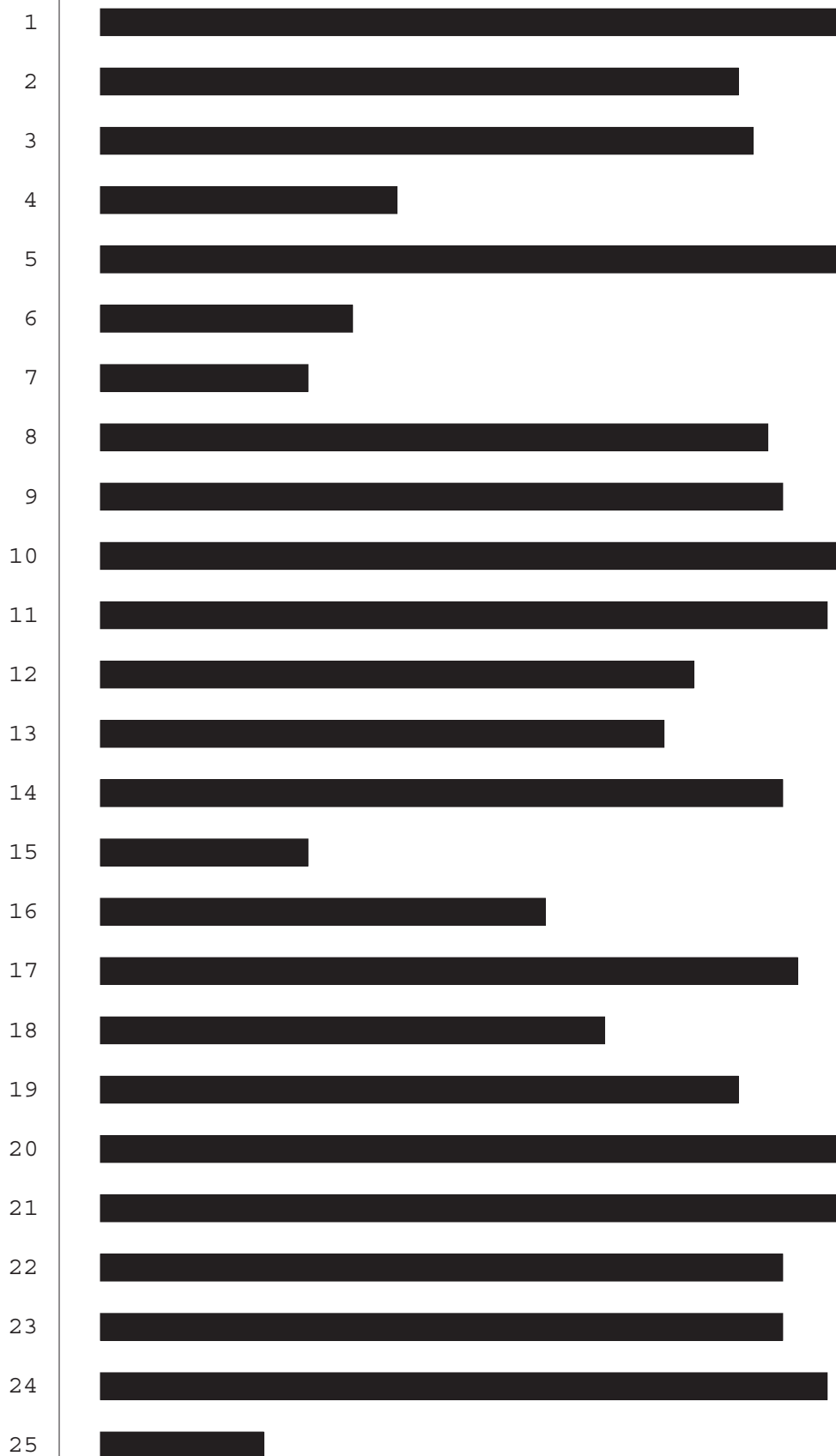
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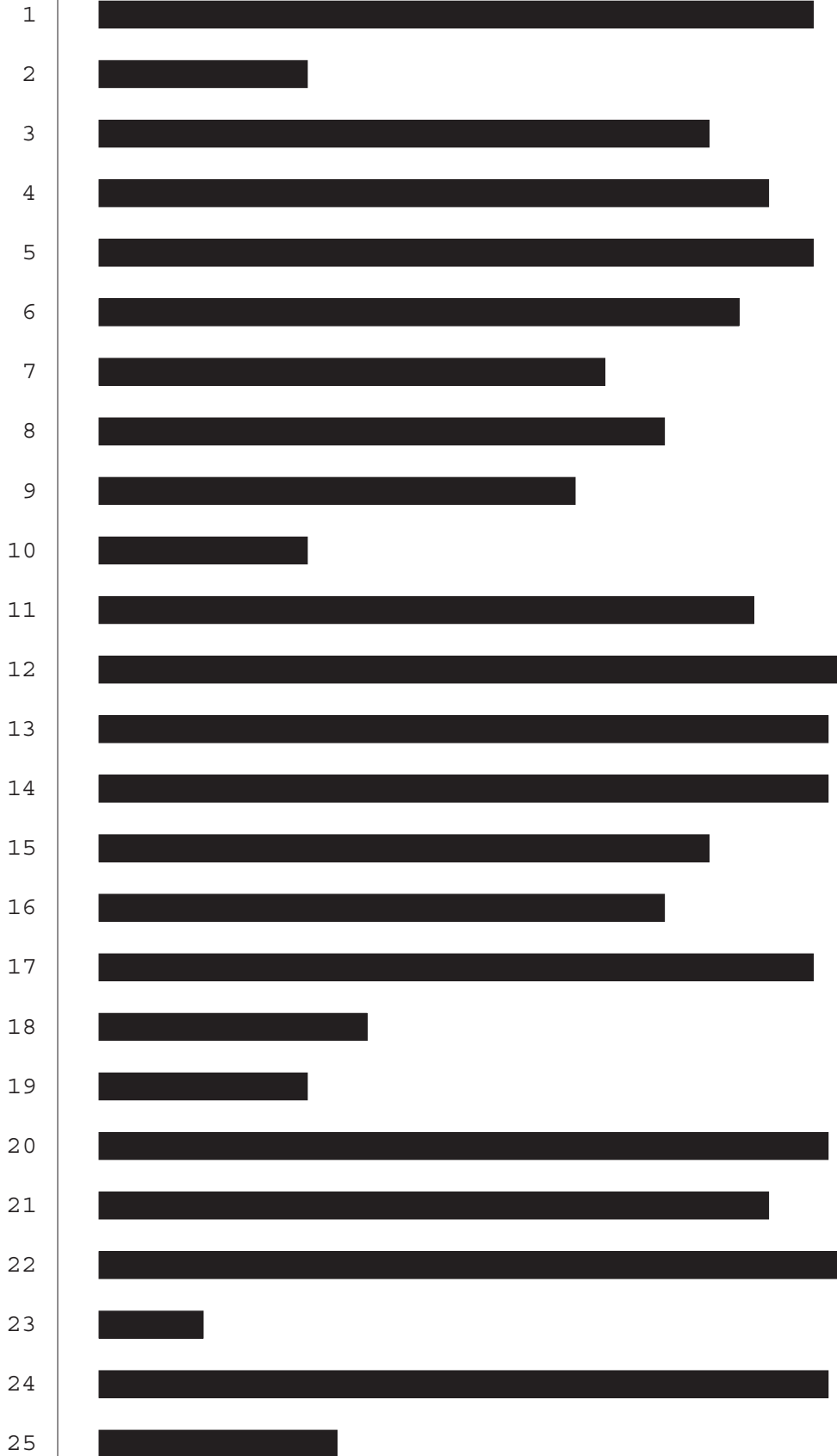


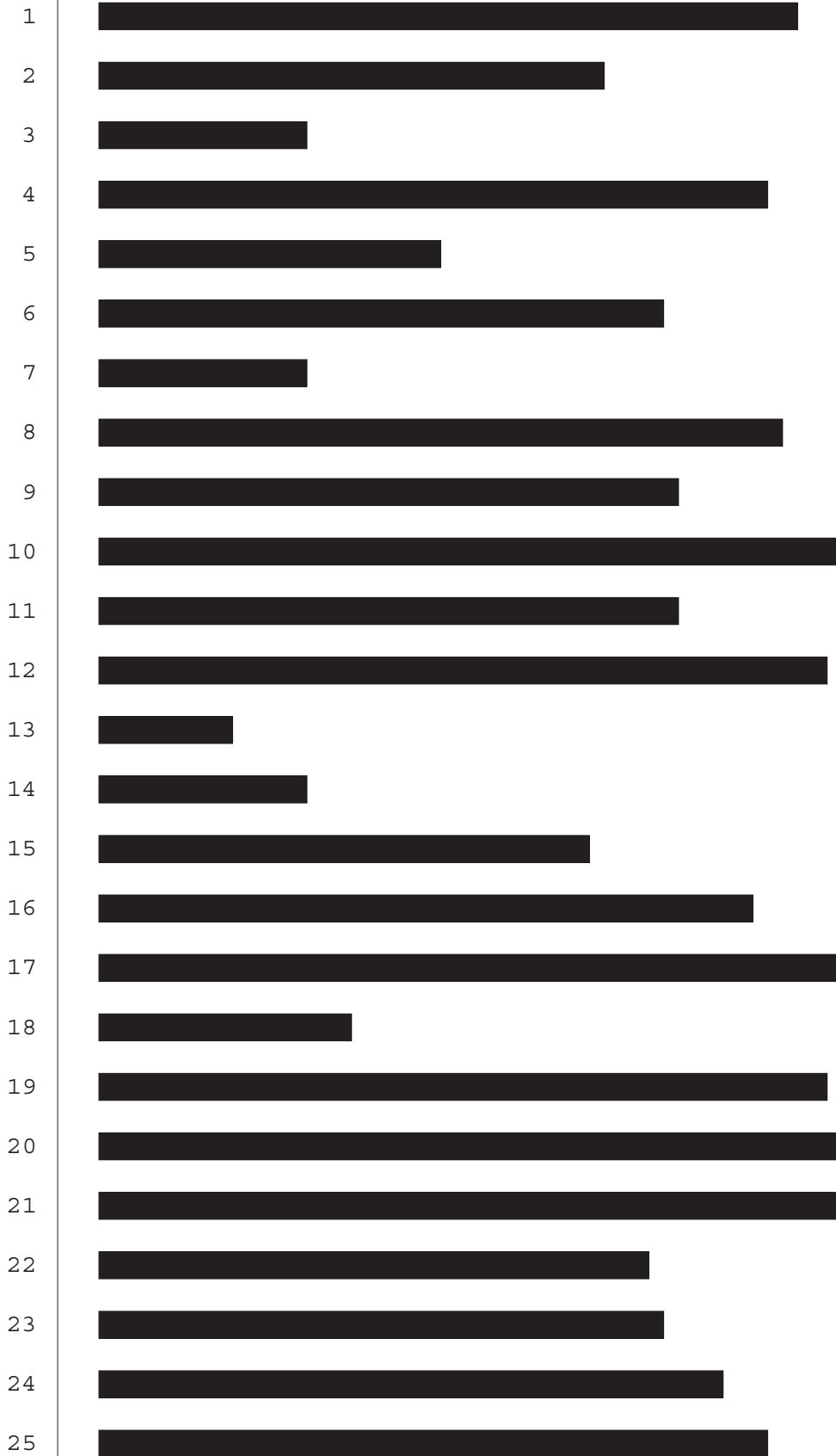


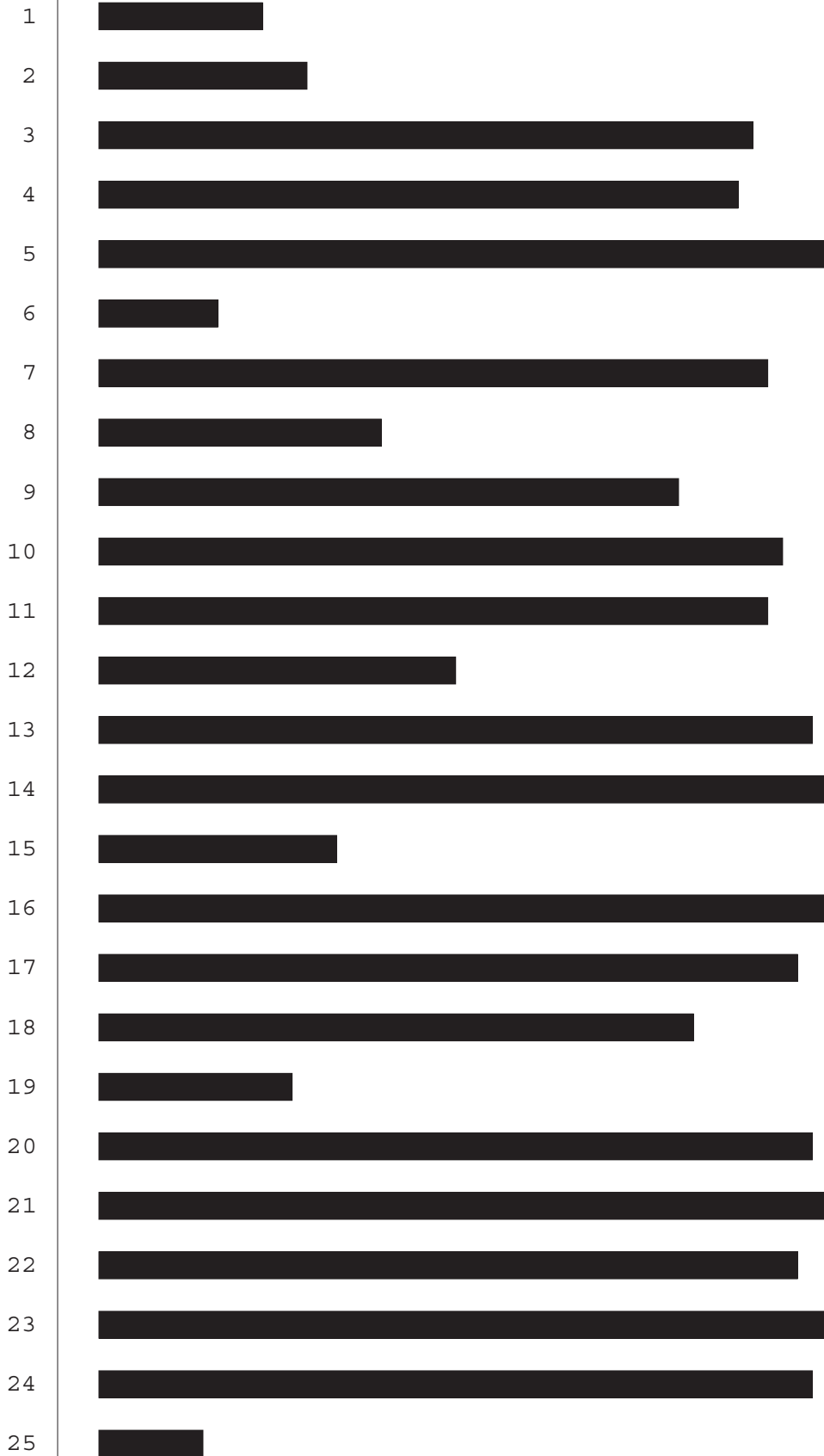




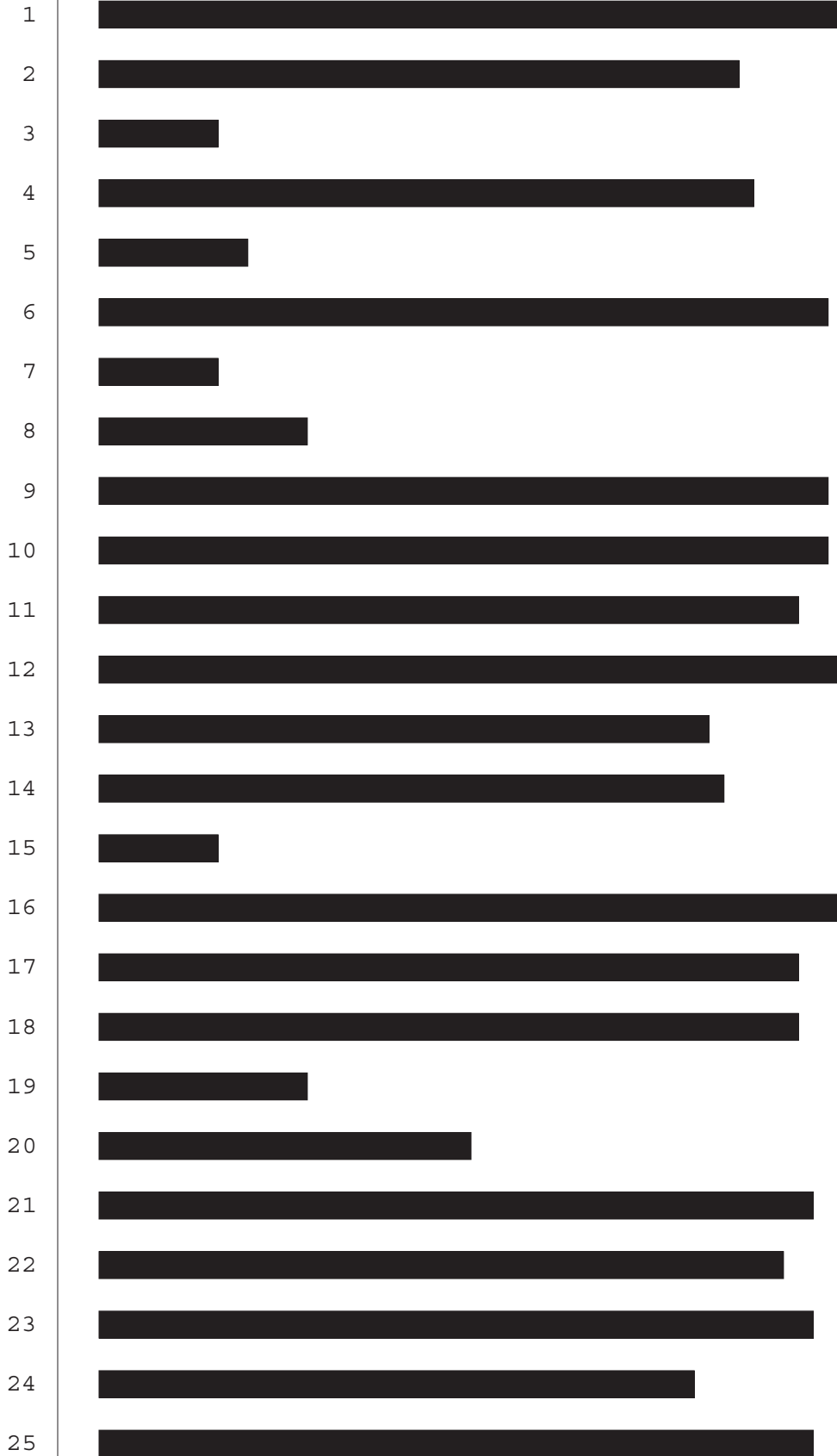
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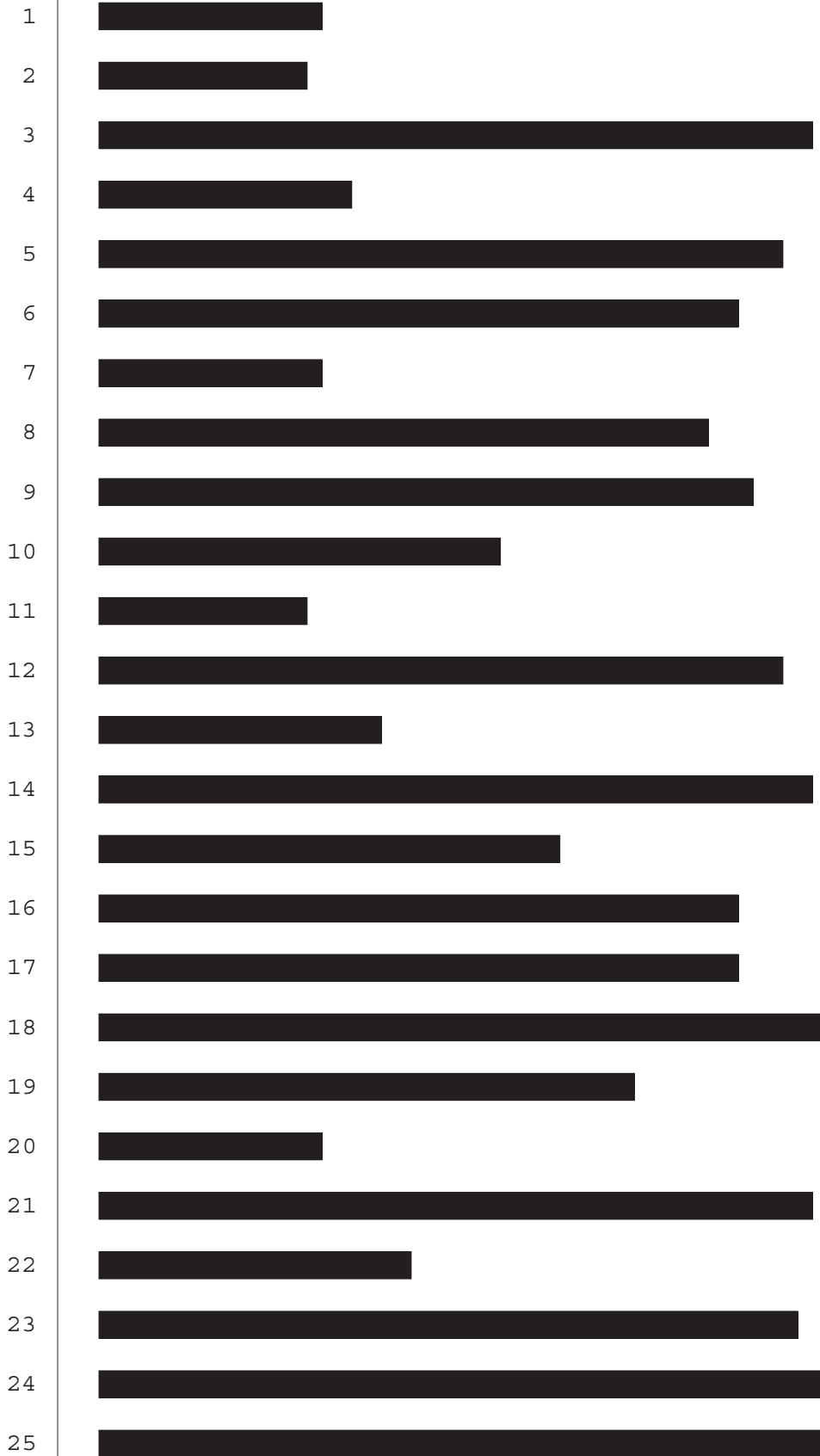




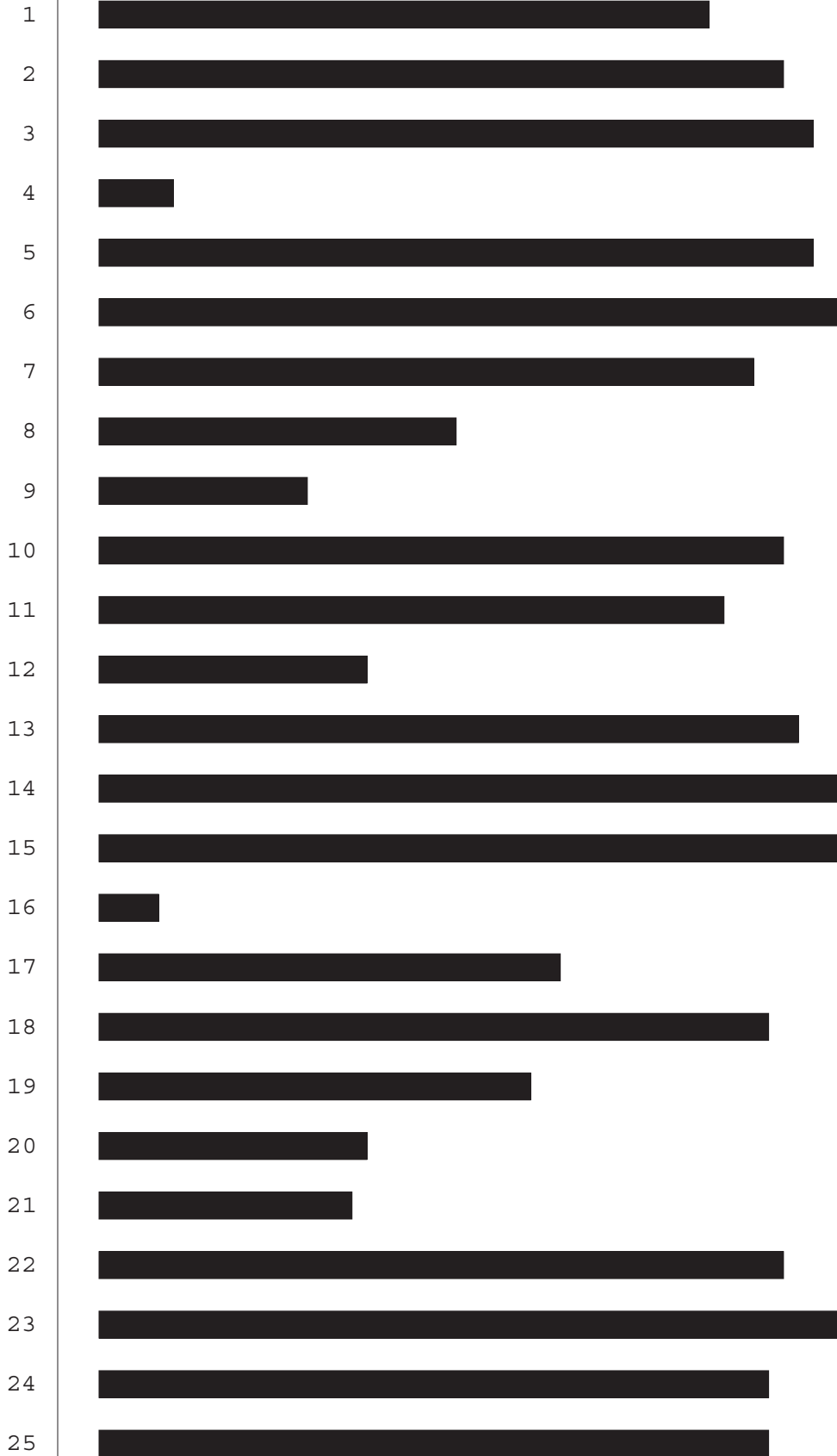


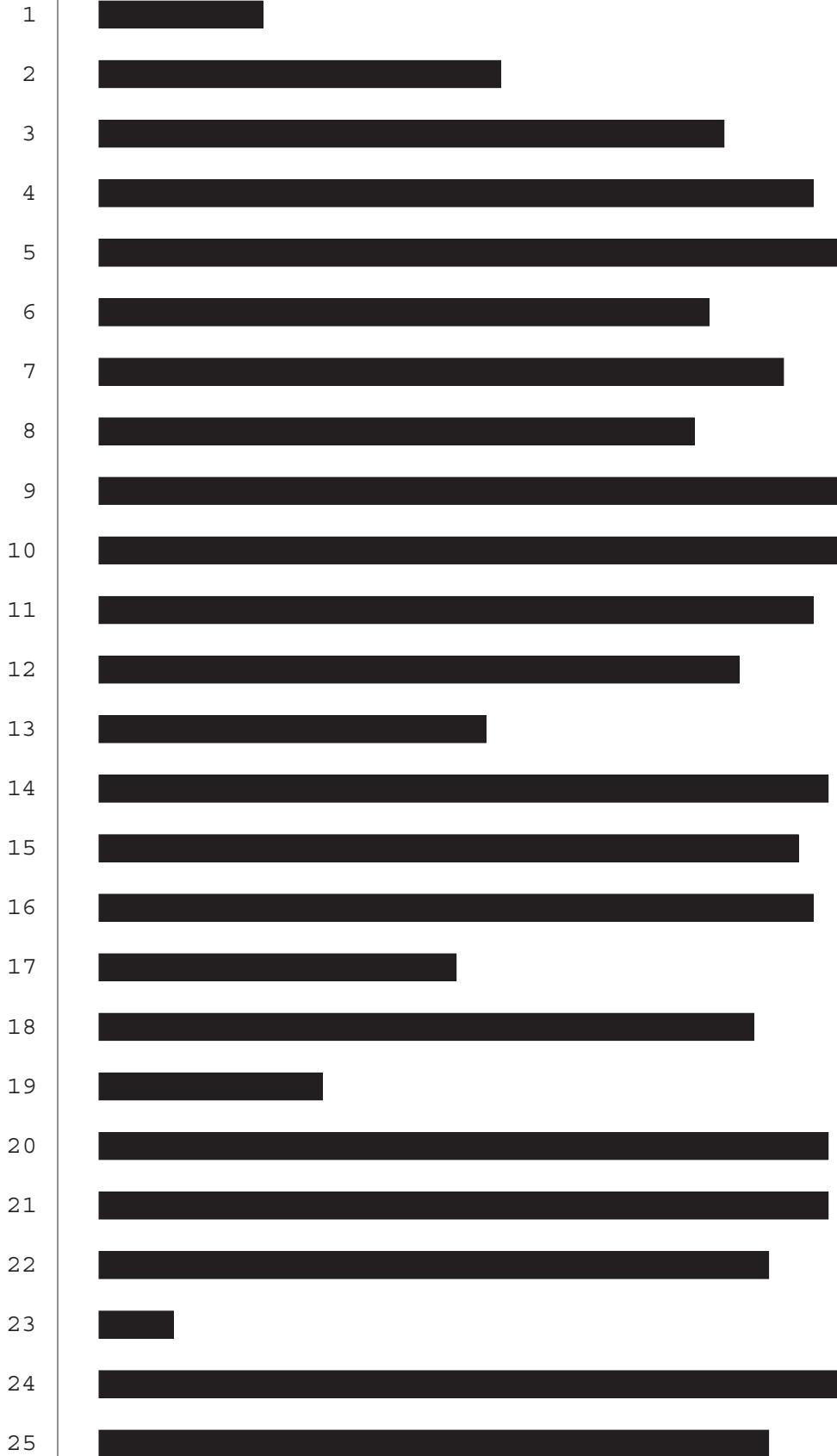






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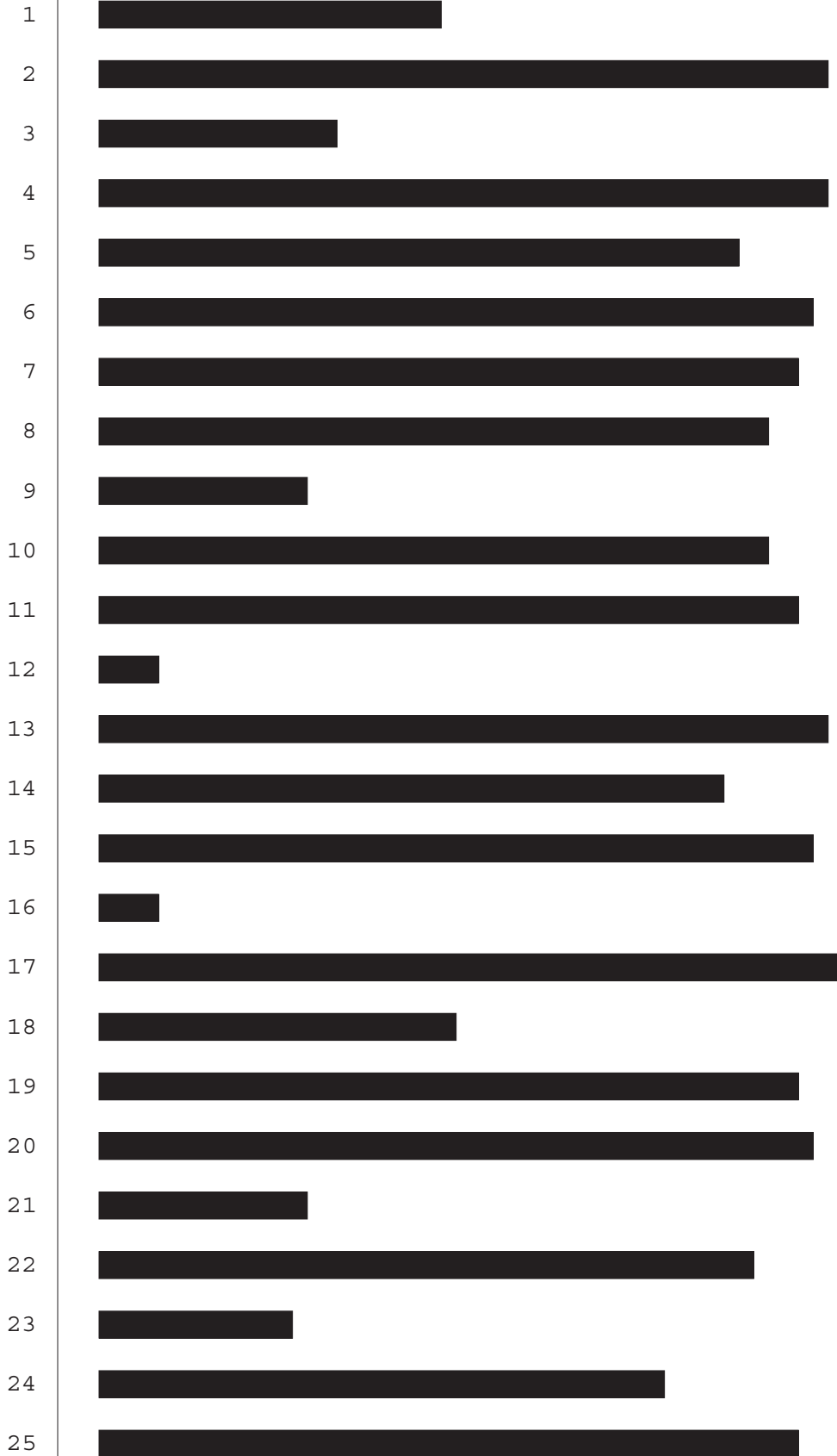


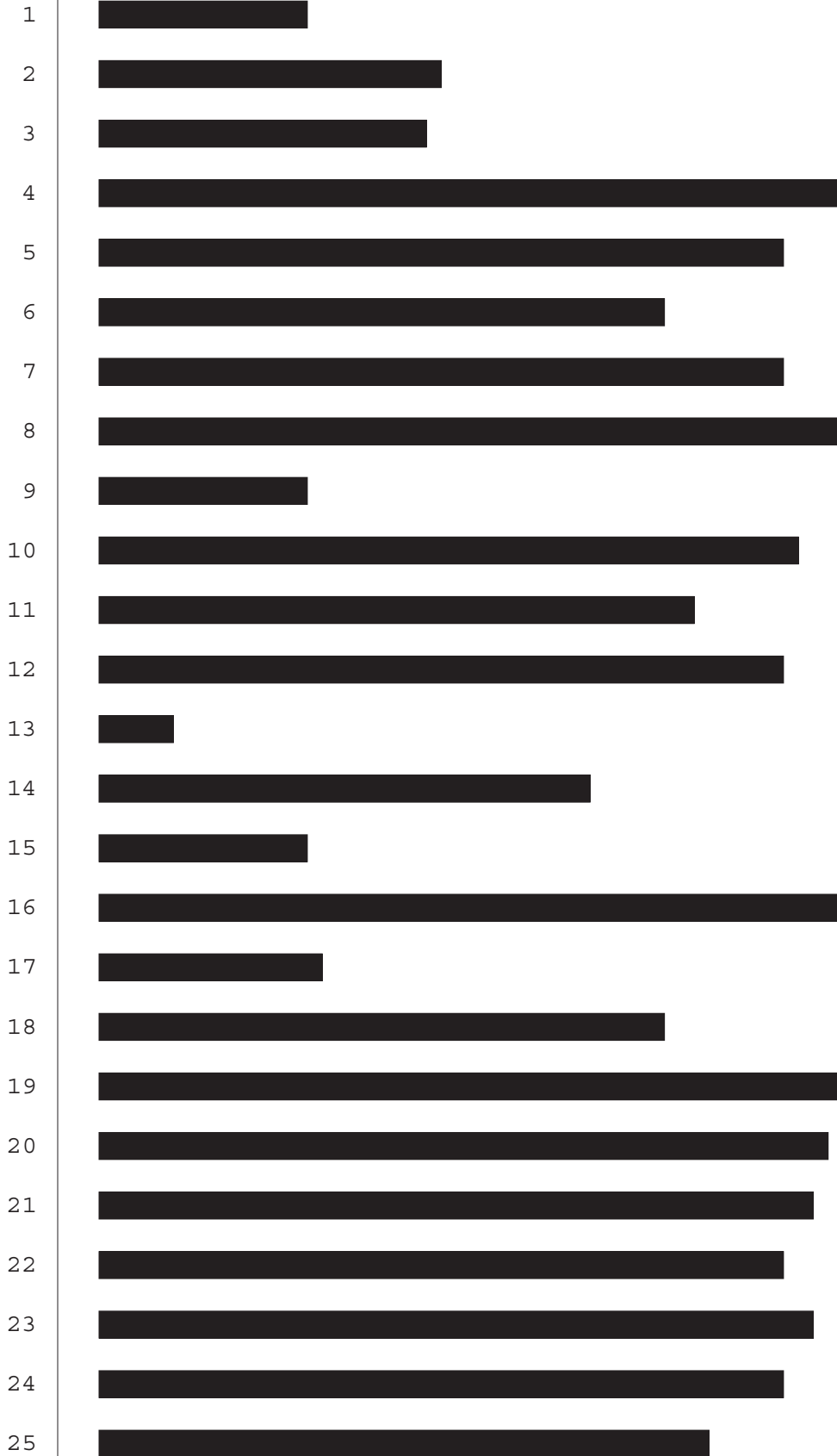








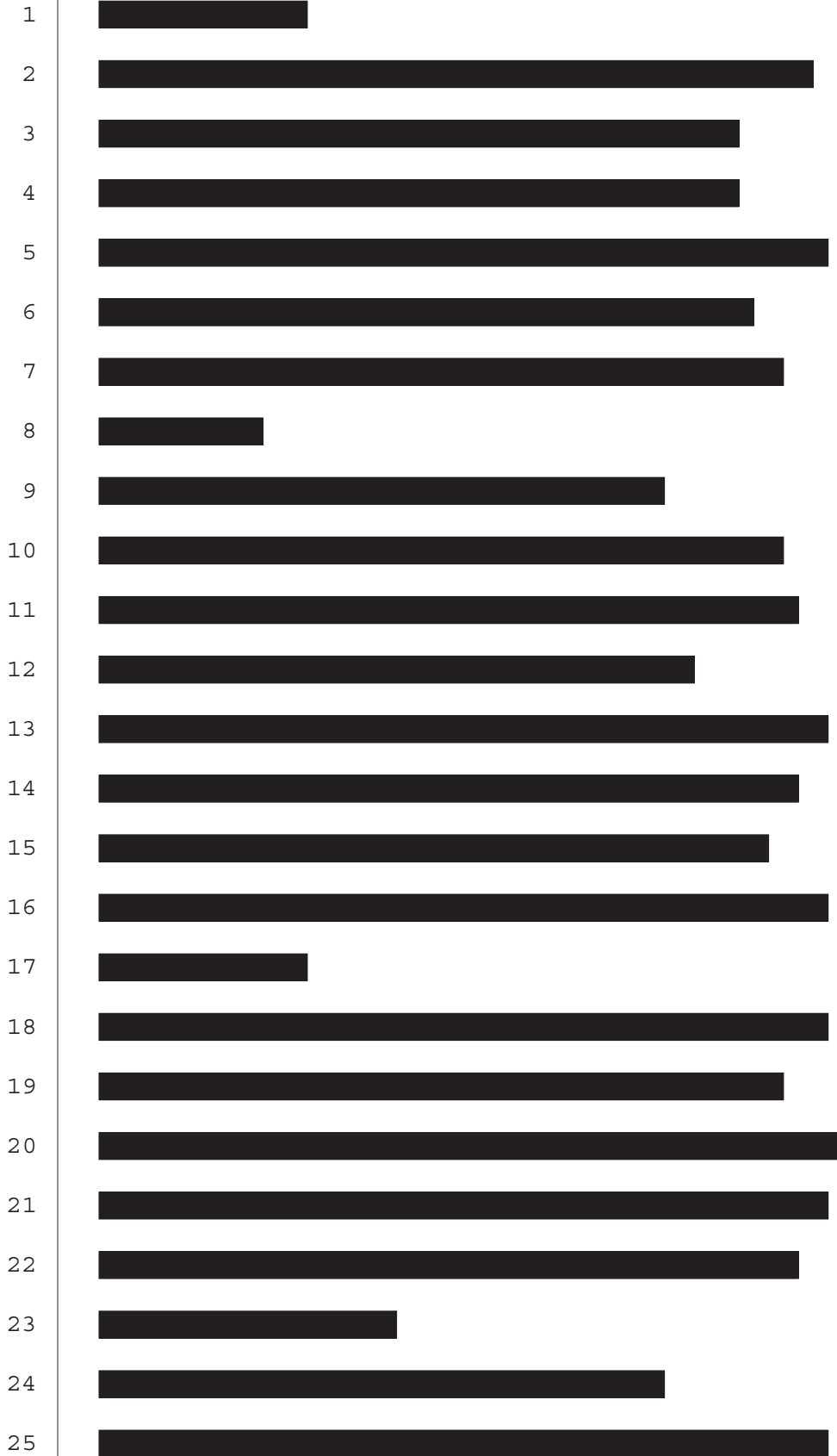




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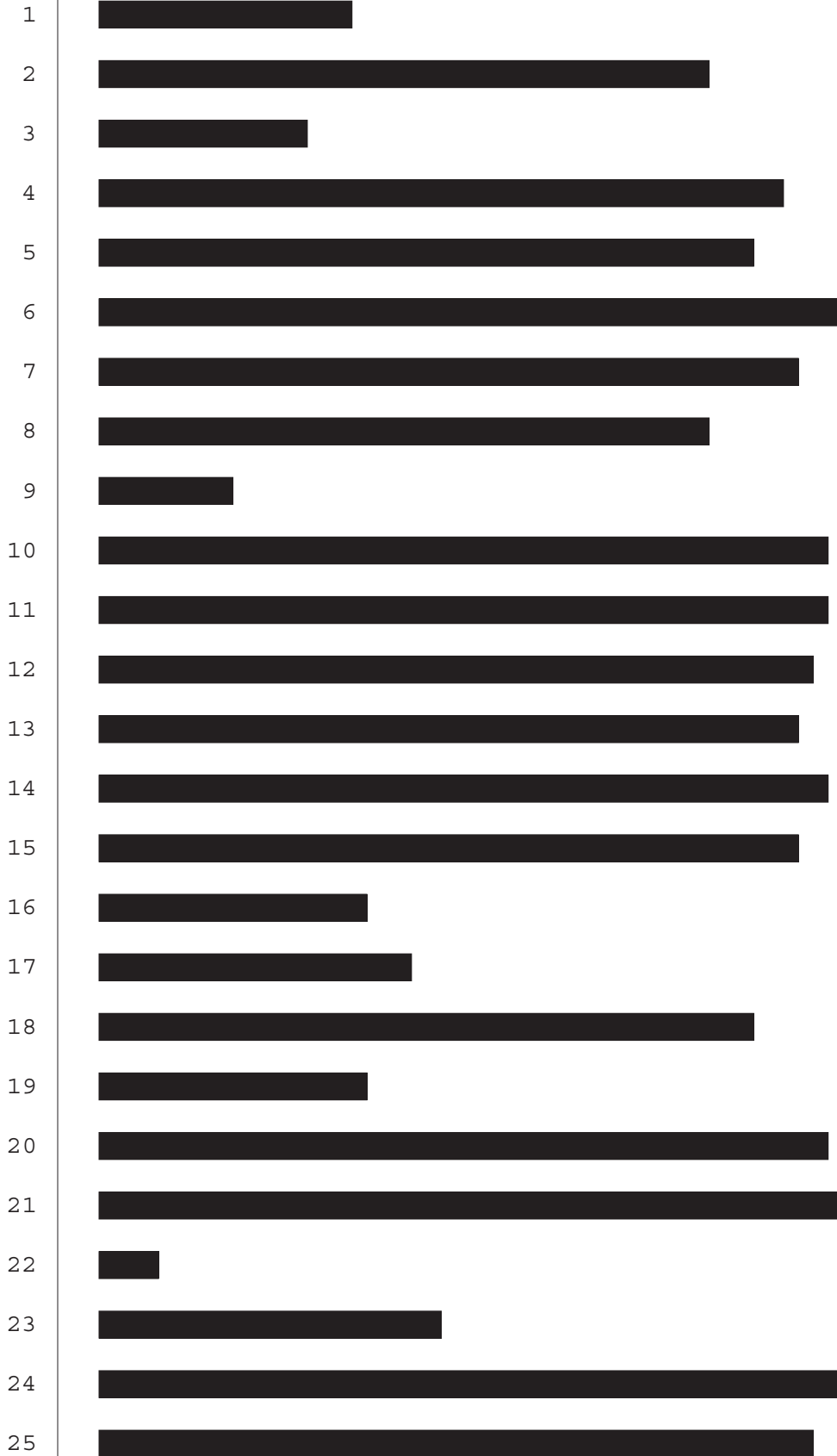






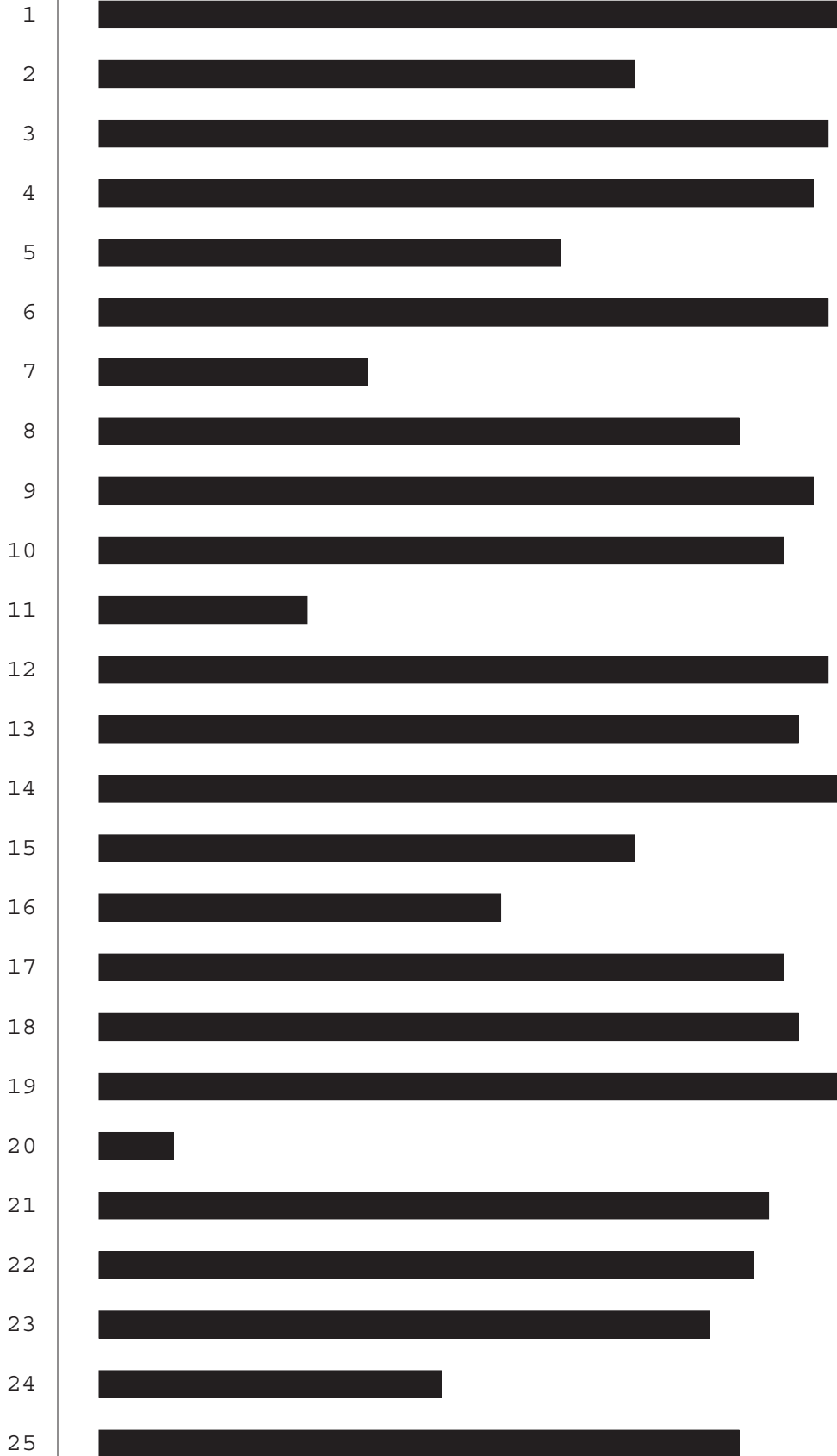








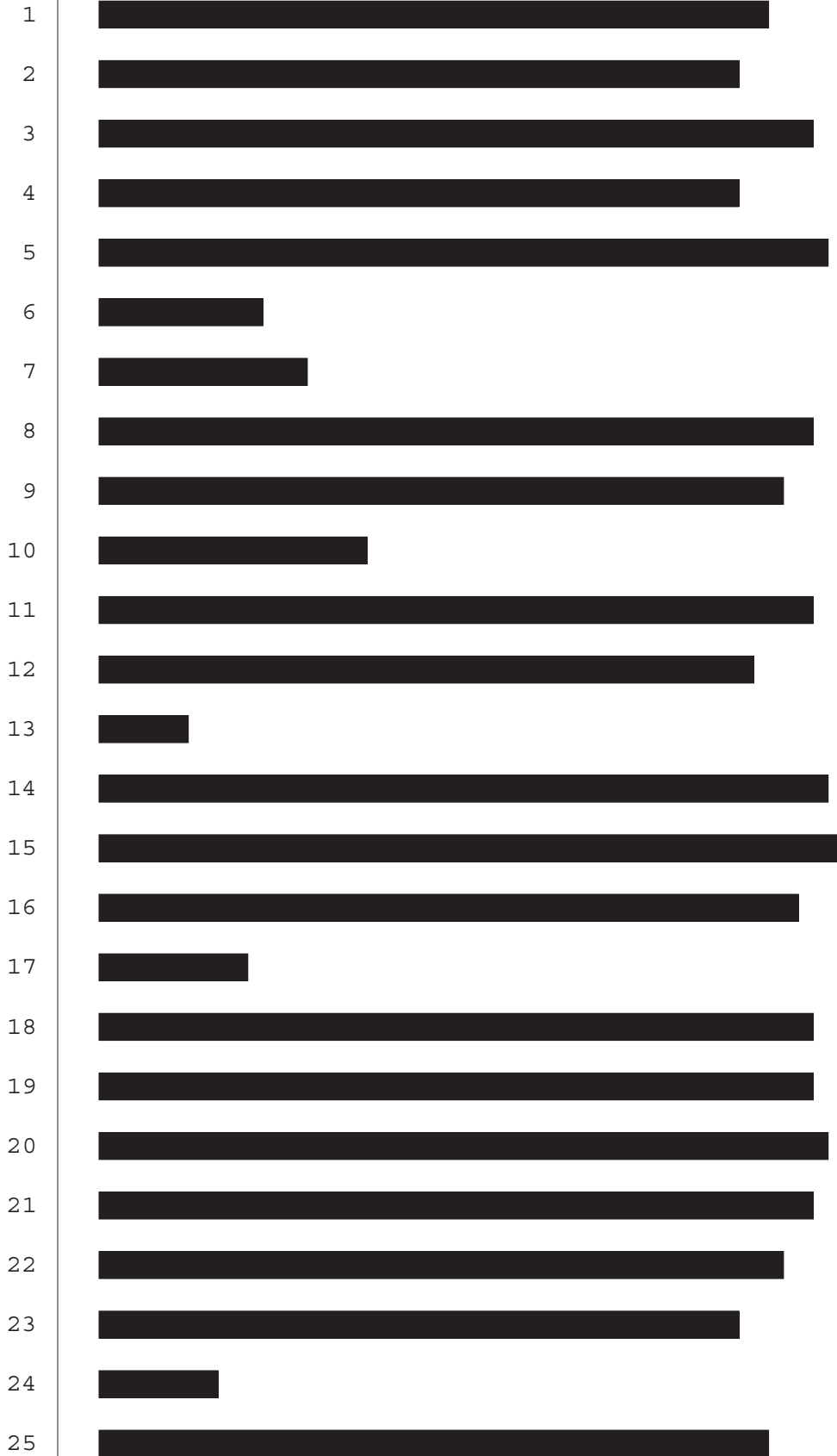






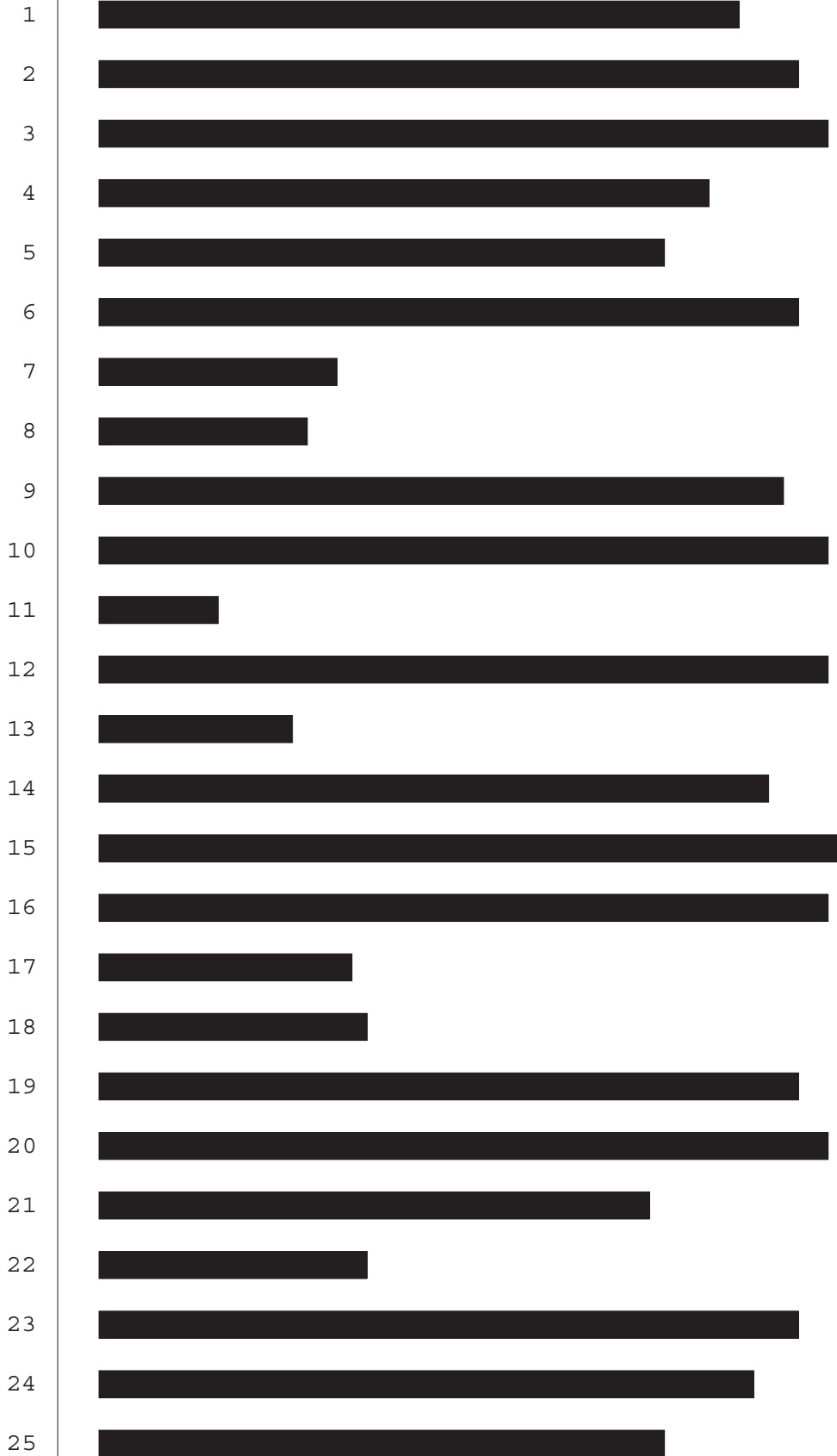












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[REDACTED]
[REDACTED]

MR. HUDSON: Let's take a break.

MR. KOBRIN: We actually have lunch here
if you want to take lunch.

THE VIDEOGRAPHER: 12:45. We're off the
video record.

(Recess from 12:45 p.m. to 1:38 p.m.)

THE VIDEOGRAPHER: 1:38. We're on the
video record.

BY MR. HUDSON:

Q. Mr. Millward, are you aware that this
litigation is about the opioid crisis?

MR. KOBRIN: Object to form.

THE WITNESS: As it's been explained to
me, yes.

BY MR. HUDSON:

Q. Do you believe that there is an opioid
problem in the United States?

MR. KOBRIN: Object to form.

THE WITNESS: Define opioid problem.

1 BY MR. HUDSON:

2 Q. Do you believe there's an opioid crisis
3 in the United States?

4 MR. KOBRIN: Object to form.

5 THE WITNESS: I believe that people
6 misuse illicit drugs or really anything,
7 unfortunately.

8 BY MR. HUDSON:

9 Q. Do you believe though that there's an
10 opioid crisis in our country?

11 MR. KOBRIN: Object to form.

12 THE WITNESS: People misuse opiates. I
13 believe they do.

14 BY MR. HUDSON:

15 Q. And do you think that the misuse of
16 opiates has led to a crisis in our country?

17 MR. KOBRIN: Object to form.

18 THE WITNESS: I believe people make
19 choices that they end up dying. It's unfortunate.

20 BY MR. HUDSON:

21 Q. Do you believe that drug manufacturers,
22 distributors or dispensers have any responsibility
23 for creating problems with opioids in our country?

24 MR. KOBRIN: Object to form.

25 THE WITNESS: I can speak for -- well, I

1 believe that the stakeholders have a -- that those
2 medications like other dangerous prescription or
3 any prescription drug must be used appropriately
4 in order to be used safely.

5 BY MR. HUDSON:

6 Q. So your view is that drugs must be used
7 appropriately in order to be used safely?

8 A. Prescriptions dispensed, those
9 medications have a very legitimate use as defined
10 by the or as the DEA states in their scheduling as
11 well as the prescription piece, and when used for
12 a legitimate patient have a very legitimate use,
13 to prevent or to treat pain.

14 Q. Do you have opinions though on whether
15 or not opioids are being misused in our country?

16 A. Do I have opinions that they are?

17 Q. Yes.

18 MR. KOBRIN: Object to form.

19 THE WITNESS: People abuse opiates.

20 BY MR. HUDSON:

21 Q. Do you believe that the manufacturers,
22 distributors or dispensers of opioids in our
23 country have any responsibility for causing the
24 opioid crisis?

25 MR. KOBRIN: Object to form.

1 MR. SHAPLAND: Object to form.

2 THE WITNESS: Responsibility for causing
3 that? I can't speak to the manufacturers. I can
4 only speak to Giant Eagle. And the responsibility
5 is to ensure medications, regardless of the
6 medication, are dispensed pursuant to a legitimate
7 prescription for a legitimate medical use for an
8 end user patient.

9 BY MR. HUDSON:

10 Q. And do you believe that Giant Eagle or
11 HBC has caused or contributed to the diversion of
12 any prescription drugs?

13 MR. KOBRIN: Object to form. I just
14 want to get it on the record that I think this is
15 exceeding the discovery ruling on questioning or
16 the discovery on the cause of the, quote-unquote,
17 opioid crisis. I think that was excluded pursuant
18 to one of the special master's orders.

19 BY MR. HUDSON:

20 Q. Do you agree that opioids have the
21 potential to be diverted for illegal purposes?

22 MR. KOBRIN: Object to form.

23 THE WITNESS: As part of the DEA's
24 classification of controlled substances, that's
25 one of the criteria. Legitimate medical use is

1 part, and the other is likelihood of diversion or
2 misuse.

3 BY MR. HUDSON:

4 Q. Do you believe that opioids though have
5 the potential for diversion?

6 MR. KOBRIN: Object to form.

7 THE WITNESS: As the DEA classifies
8 that, correct.

9 BY MR. HUDSON:

10 Q. And to you, what does diversion mean?

11 A. Diversion can be outright theft or that
12 end user patient not using the medication as
13 required or as prescribed or -- once that
14 medication leaves the realm of Giant Eagle's
15 control or the pharmacy's control in general and
16 that patient uses it outside as prescribed.

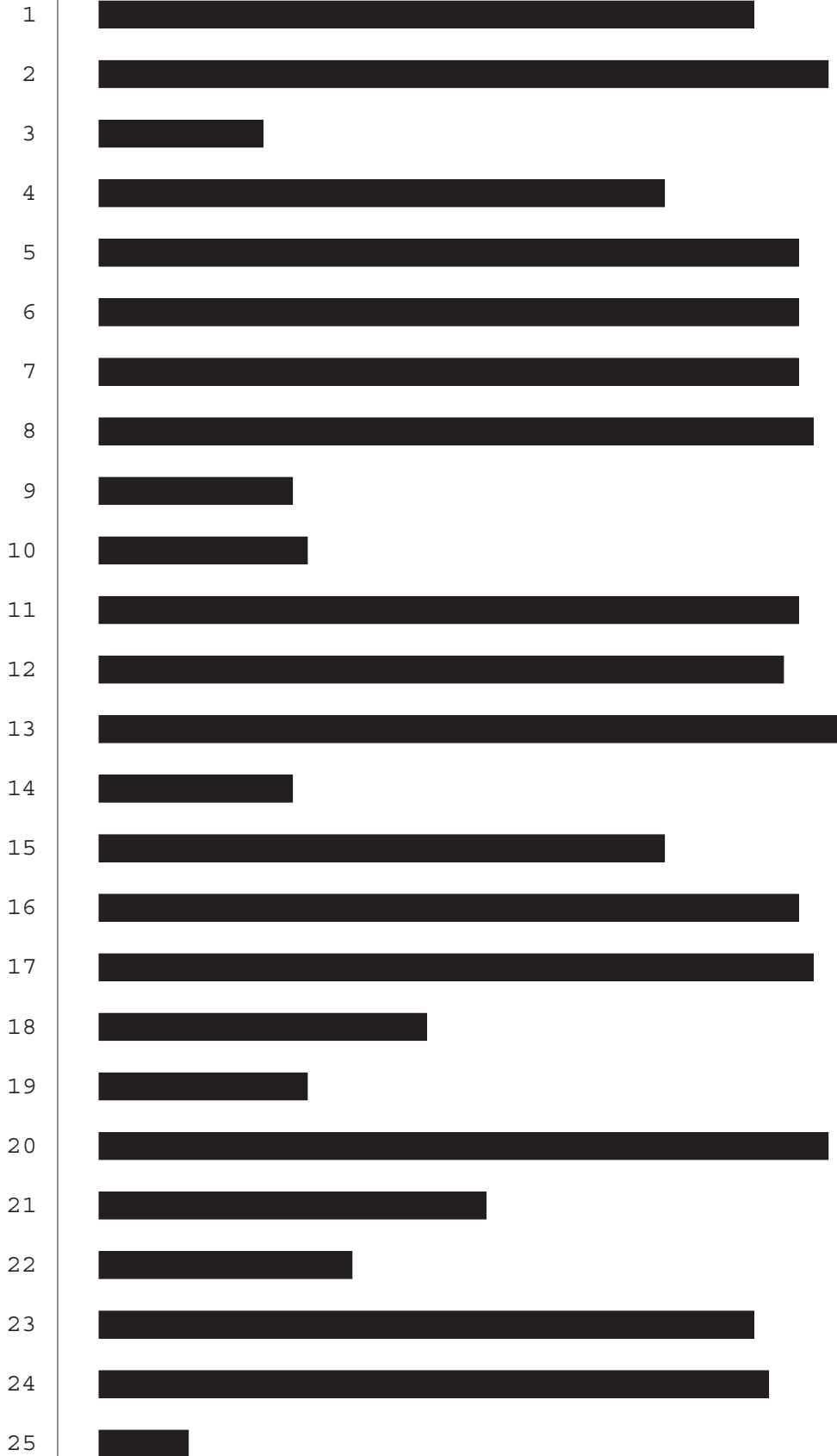
17 Q. Anything else in terms of diversion?

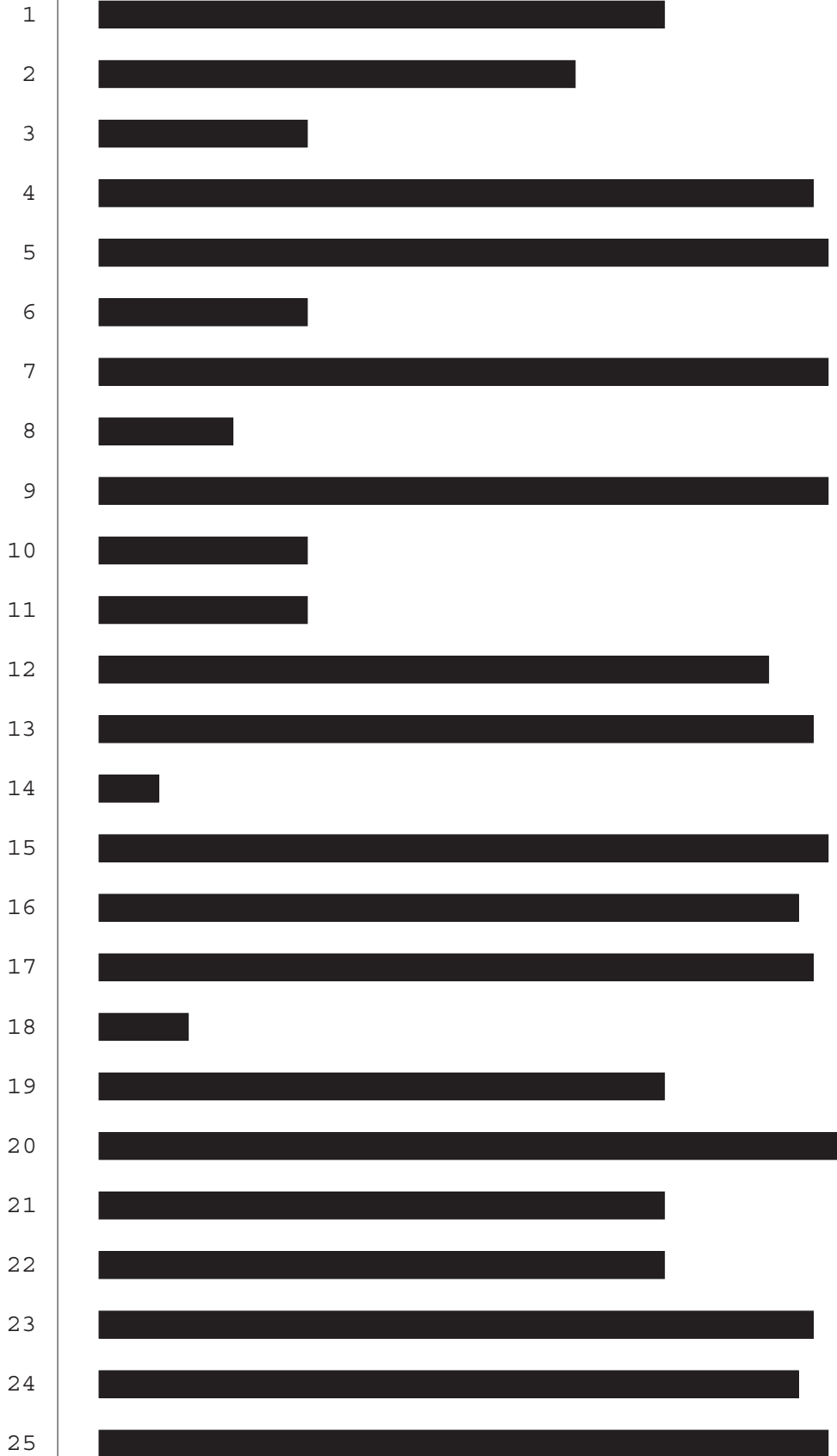
18 A. Not off the top of my head.

19 [REDACTED]
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23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

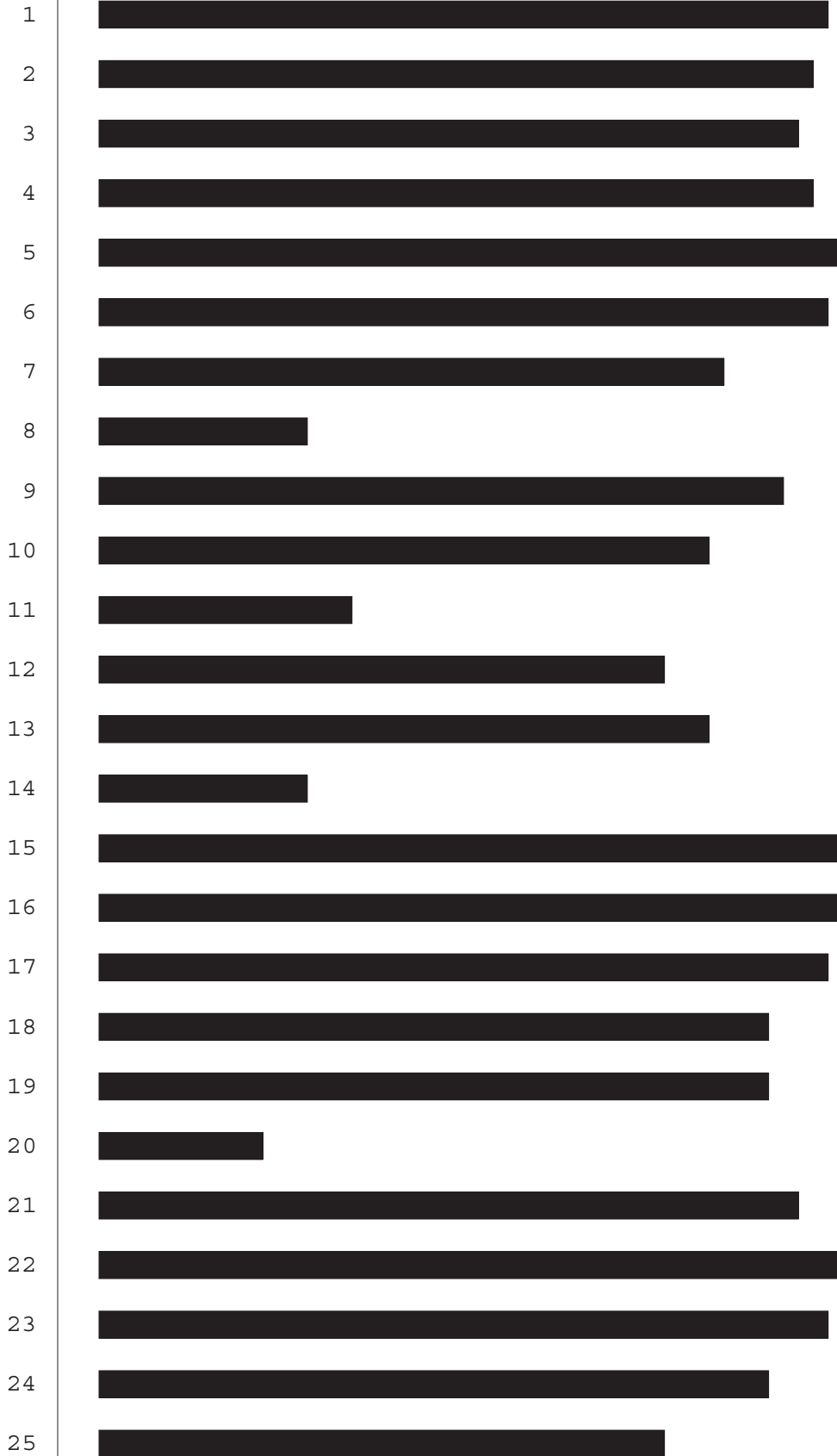




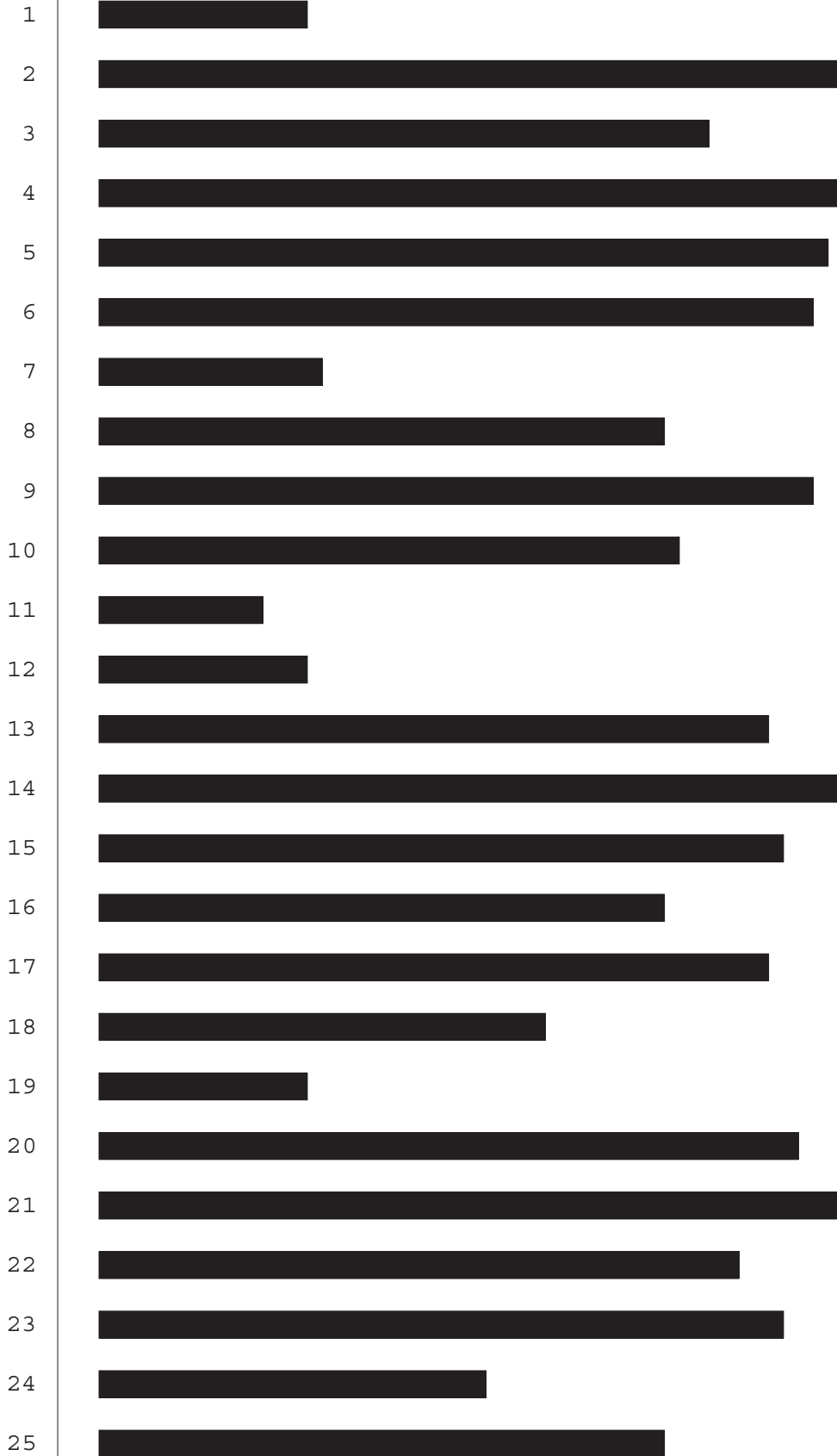














1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 BY MR. HUDSON:

5 Q. Are you aware that HBC was a distributor
6 of hydrocodone combination products?

7 A. As they were Schedule IIIs.

8 Q. Are you familiar with hydrocodone
9 combination products?

10 A. I am.

11 Q. And you're familiar with hydrocodone?

12 A. As a pharmacist.

13 (HBC-Millward Exhibit 6 was marked.)

14 BY MR. HUDSON:

15 Q. Let me hand you what I've marked as
16 Exhibit 6 here.

17 MR. HUDSON: Exhibit 6, P-GEN-86 is the
18 internal reference number.

19 MR. KOBRIN: Is there a date on this
20 document?

21 MR. HUDSON: I don't know. I do know on
22 the second page, it says, "Hydrocodone is a
23 Schedule II narcotic that is marketed in
24 multi-ingredient Schedule III products." So it
25 was before October 2014.

1 BY MR. HUDSON:

2 Q. Have you had a chance to review the DEA
3 Drug Fact Sheet?

4 A. Finishing up, but yes.

5 MR. KOBRIN: Do you know where you got
6 this?

7 MR. HUDSON: I think from the Drug
8 Enforcement Administration.

9 MR. KOBRIN: Is it still up on their
10 website?

11 MR. HUDSON: I don't know that.

12 THE WITNESS: Okay.

13 BY MR. HUDSON:

14 Q. Do you see there under the Overview, it
15 says, "Hydrocodone is the most frequently
16 prescribed opioid in the United States and is
17 associated with more drug abuse and diversion than
18 any other elicited or illicit opioid"?

19 A. I do see that sentence.

20 Q. Do you have any reason to disagree with
21 that sentence?

22 A. No. I don't have any data to dispute
23 the DEA's statement.

24 Q. Then if you go down to the bottom, do
25 you see it says, "There are numerous brand and

1 generic hydrocodone products marketed in the
2 United States. All are combination products. The
3 most frequently prescribed combination is
4 hydrocodone and acetaminophen."

5 And then it's got examples of Vicodin and
6 Lortab, Lorcet, and then other examples of
7 combination products include those containing
8 aspirin, which, again, is Lortab ASA, ibuprofen
9 and then antihistamines.

10 And those are drugs you're familiar with;
11 correct?

12 A. Correct.

13 Q. Those were drugs that HBC acted as a
14 distributor of; correct?

15 A. The hydrocodone-containing products?

16 Q. Yeah, hydrocodone combination products.

17 A. Combination products?

18 Q. Yes.

19 A. I'm sorry. Thank you. Yes.

20 Q. Do you have any sense of the volume of
21 hydrocodone combination products that HBC acted as
22 a distributor of?

23 A. I do not.

24 Q. Let me -- I'm going to avoid marking
25 these, but I'm going to hand you what I'll

1 represent to you is a printout of a spreadsheet
2 that was provided to us, and I believe in the top
3 right it says P-HBC-6011.

4 And, again, I'll represent to you that I took
5 the spreadsheet that was transactional data of HBC
6 and just sorted it by order of date.

7 A. Okay. I see that on the third column
8 from the right.

9 Q. Right. So you see there and then under
10 the drug name, you see hydro, hydro, hydro, all
11 the way down. And then it's got the buyer's
12 number, the buyer's address, the buyer's city, the
13 buyer's state.

14 What you have before you are all transactions
15 or shipments that were sent by HBC to retail
16 pharmacies in Summit County. And you can probably
17 recognize that from the names of the cities.

18 A. I'll be honest. I'm not familiar with
19 the county designations for Ohio as a geography
20 thing.

21 Q. And then also, one of the requirements
22 under the Controlled Substances Act is to report
23 data to the DEA's ARCOS unit; correct?

24 A. Correct.

25 Q. And that was also something that HBC did

1 during the time it was a distributor; correct?

2 A. I believe so. Did not oversee that.

3 (HBC-Millward Exhibit 7 was marked.)

4 BY MR. HUDSON:

5 Q. Let me hand you what I've marked as
6 Exhibit 7.

7 MR. KOBRIN: Are we going to make this
8 as an exhibit? We'd like to mark it as an
9 exhibit.

10 MR. HUDSON: Do you want to mark it?

11 MR. KOBRIN: Yeah. I think it makes
12 sense.

13 (HBC-Millward Exhibit 8 was marked.)

14 MR. HUDSON: That's fine. So we'll mark
15 that as Exhibit 8. I apologize. I don't have
16 copies because I was not going to mark it.

17 MR. BARTON: So HBC-6011 is Exhibit 8.

18 (HBC-Millward Exhibit 9 was marked.)

19 BY MR. HUDSON:

20 Q. What I'll do is I'll go ahead and
21 mark -- I'll go ahead and mark as 9 what I'm
22 handing you here, which is the data into Cuyahoga,
23 the data of shipments from HBC into retail
24 pharmacies in Cuyahoga.

25 MR. KOBRIN: That is 9?

1 MR. HUDSON: That is 9.

2 BY MR. HUDSON:

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

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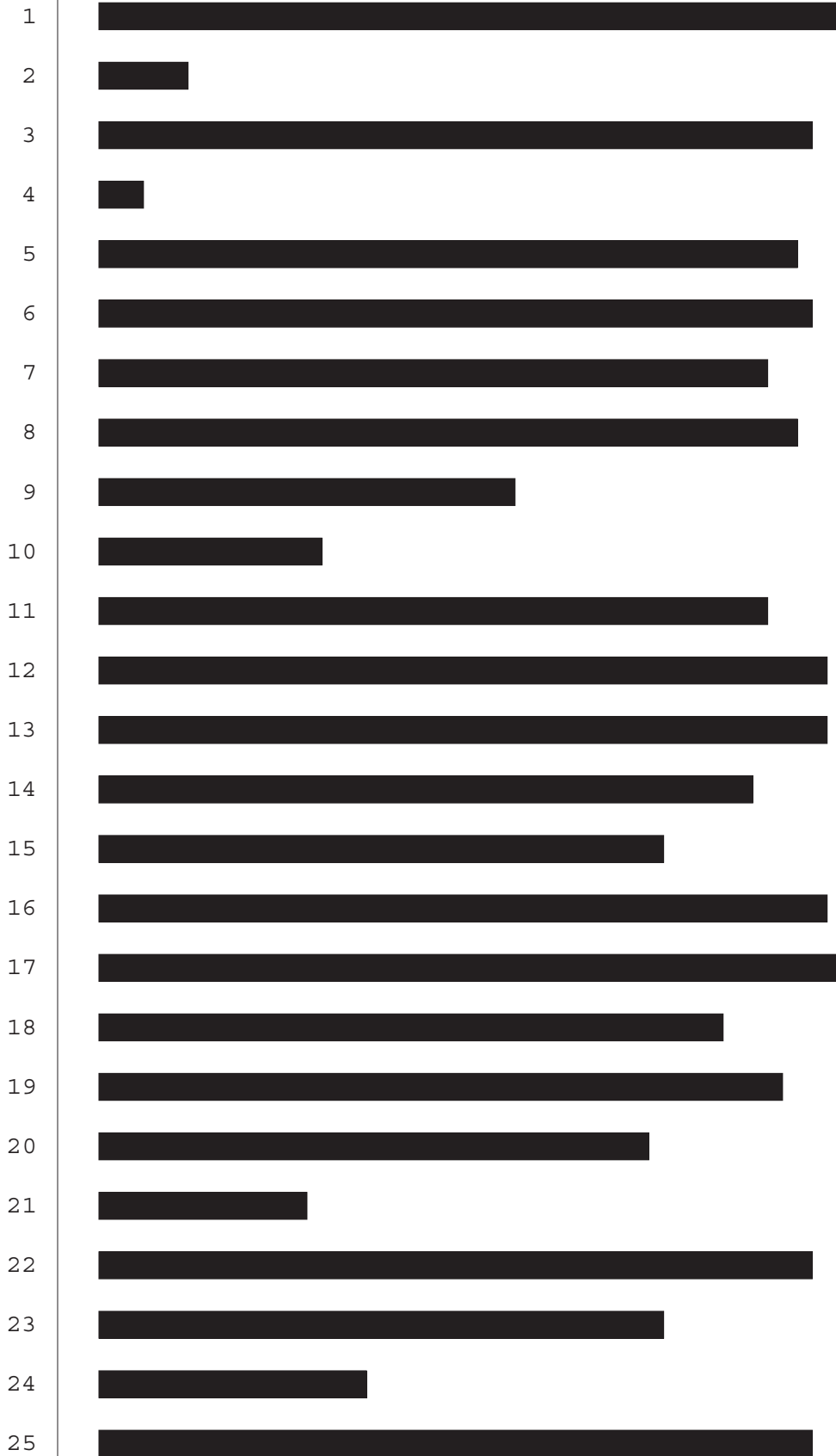
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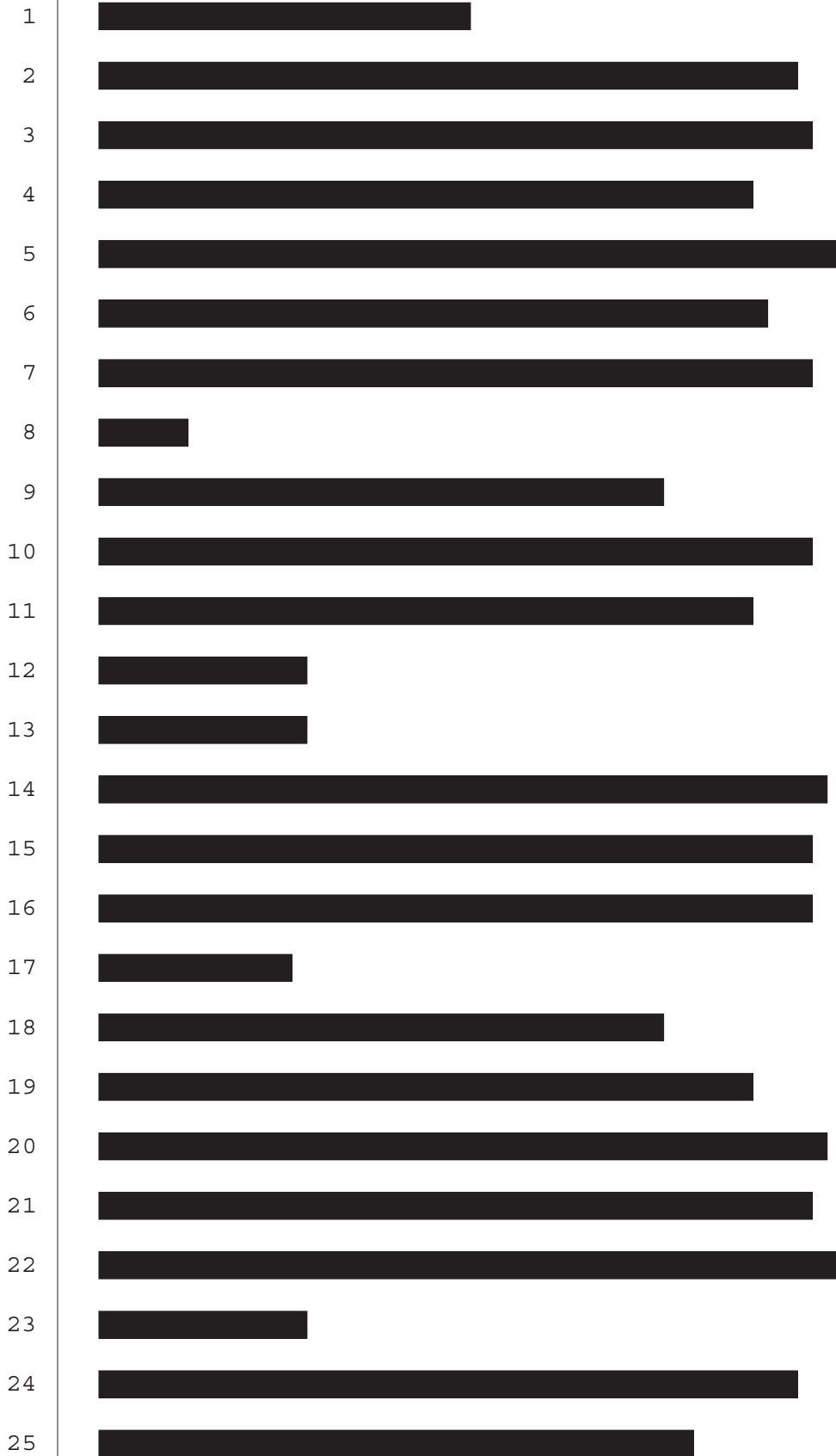
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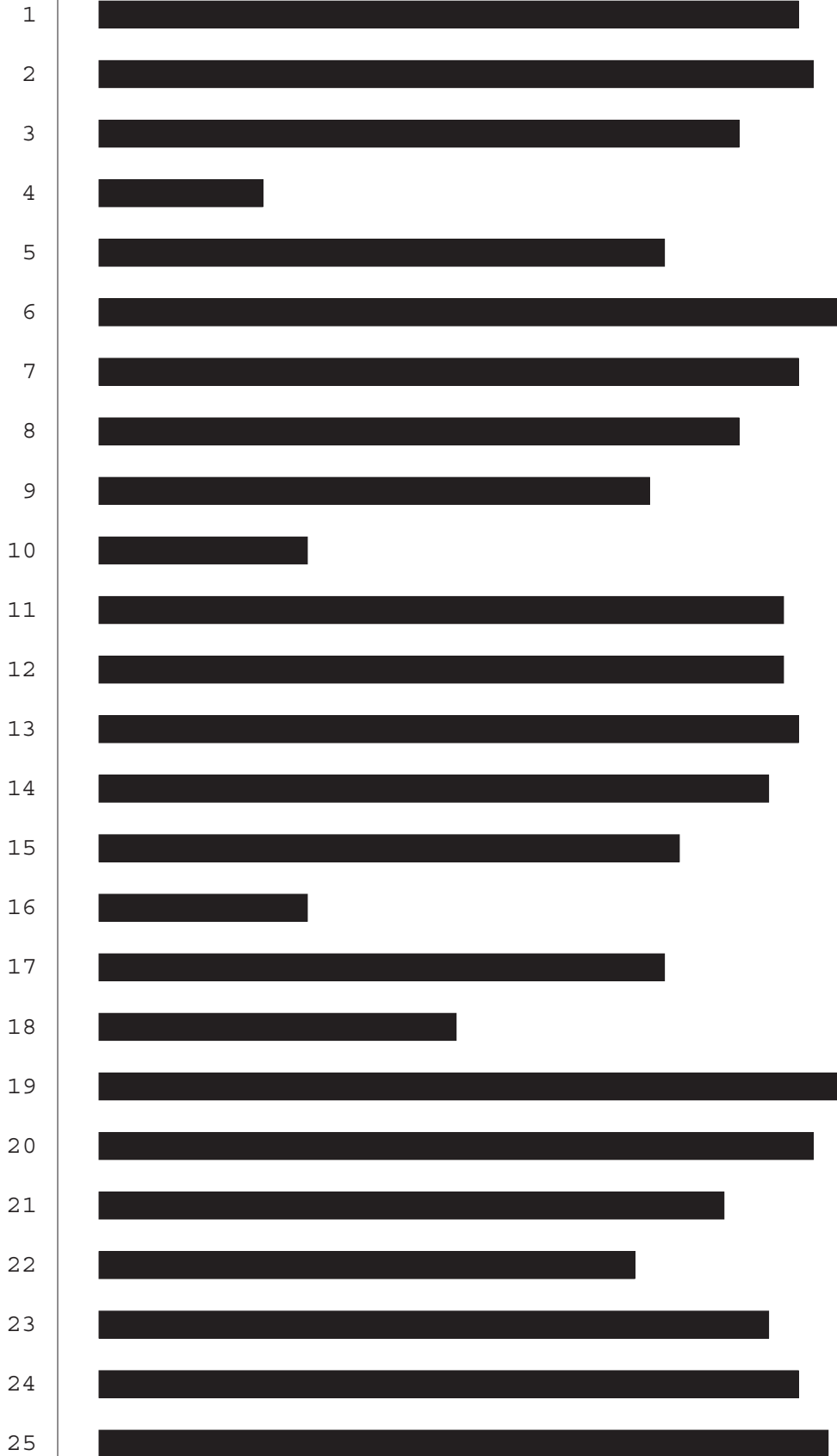




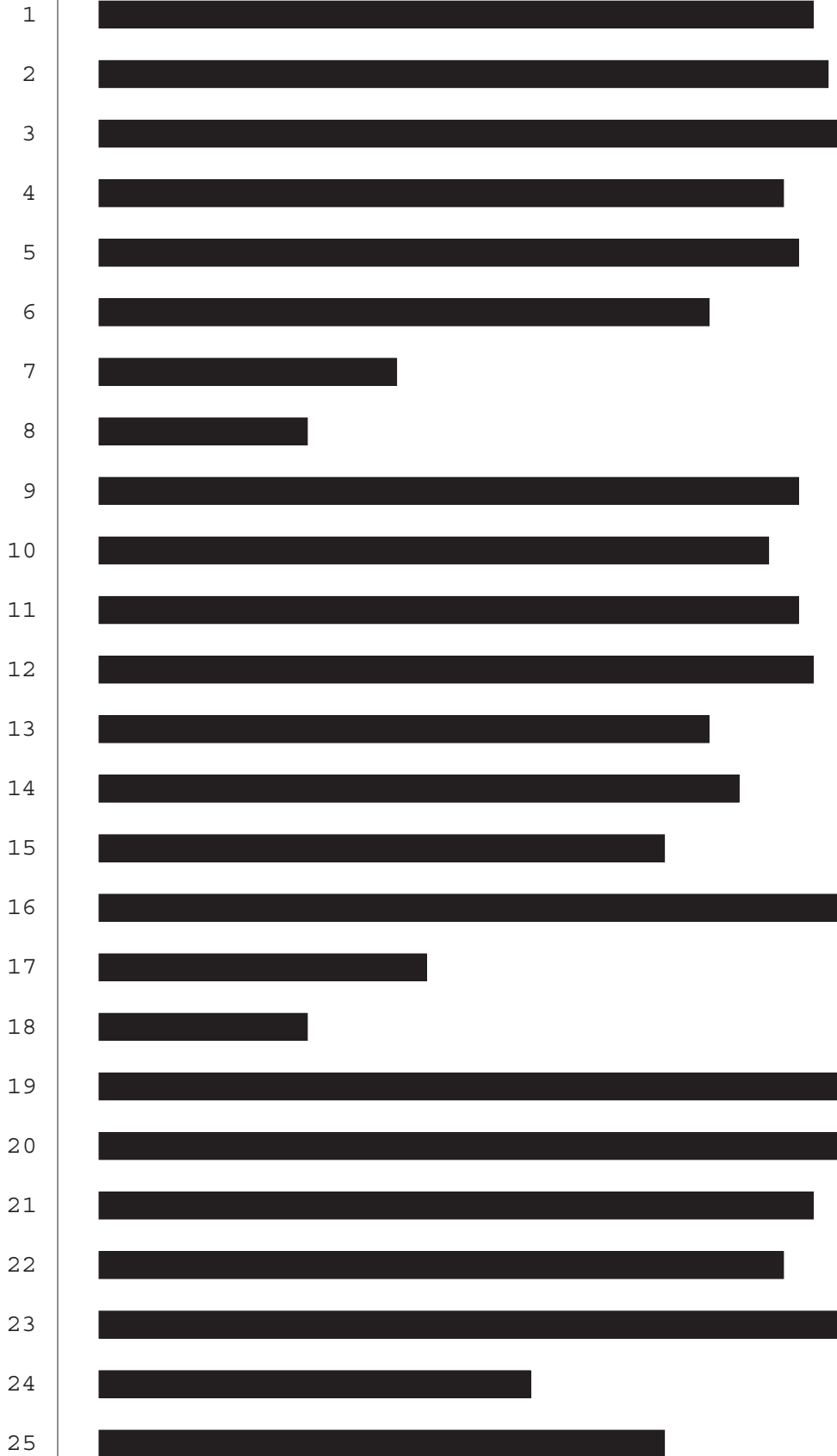














1 And then ultimately, in the last statement on
2 the controlled substances dispensing guidelines, a
3 pledge to the pharmacist that if they determine a
4 prescription was not legitimate or a doctor
5 couldn't justify its use and they chose not to
6 fill it, the company would support them.

7 Q. But before we talked about the types of
8 diversion, and you said theft; right?

9 A. Correct.

10 Q. So you've got written policies in place
11 at the retail pharmacy level to prevent theft;
12 correct?

13 A. Correct.

14 Q. Explain to me in the overall suspicious
15 order monitoring system how what happens at the
16 retail operations or what happens at corporate has
17 an impact on a suspicious order monitoring system
18 at the HBC warehouse.

19 A. Again, it goes down to the levels, the
20 integrated levels of control, that we spoke about,
21 over.

22 Q. Specifically, what is the integration
23 though?

24 A. The store level responsibilities to
25 prevent the opportunity for theft and diversion or

1 theft at the store level. On the handling of the
2 medication, pharmacies, for example, are required
3 to do a physical inventory every month. And
4 that's a standard of practice across retail, or at
5 least in my experience through Rite-Aid and Giant
6 Eagle, as an example of one of those control
7 mechanisms.

8 Q. You keep using the word "integrated,"
9 integrated system. How is that policy in place at
10 a retail pharmacy to prevent theft, how is that
11 integrated into what HBC is doing at their
12 warehouse?

13 MR. KOBRIN: Object to form.

14 THE WITNESS: Having control of the
15 product the entire -- so Giant Eagle has control
16 of that product the entire way from when it comes
17 into the distribution center to when it goes to
18 the end user patient, and those policies and
19 dispensing procedures and pharmacy laws, rules and
20 regulations all play roles into ensuring that --
21 play a role that the medications are dispensed
22 appropriately for legitimate prescriptions, and
23 have procedures in place that if there is a
24 discrepancy that's found, that it is investigated
25 and reported as appropriate, as required.

1 BY MR. HUDSON:

2 Q. Let me ask you this: How many shipments
3 to retail pharmacies, Giant Eagle retail
4 pharmacies, did Giant Eagle retail pharmacies
5 report to the DEA as being suspicious?

6 MR. KOBRIN: Object to form.

7 THE WITNESS: Timeframe, please.

8 BY MR. HUDSON:

9 Q. Ever.

10 A. I can't speak for anything beyond or
11 prior to my time.

12 Q. 2009 to 2016 then. Are you aware of any
13 Giant Eagle retail pharmacy that ever reported to
14 the DEA a suspicious order of controlled
15 substances?

16 A. A Giant Eagle pharmacy?

17 Q. Yes.

18 A. Reporting a suspicious order?

19 Q. Correct.

20 A. Suspicious prescription? Because the
21 pharmacy would see the prescription.

22 Q. A suspicious order. If it's an
23 integrated system, are you saying that the retail
24 pharmacies are playing some role in trying to
25 identify orders of unusual size?

1 A. The system is designed to prevent orders
2 of unusual size or to identify and call them out.

3 Q. Right. So is it your testimony that
4 Giant Eagle retail pharmacies, as part of their
5 integrated system, actually played a role and
6 tried to identify orders of unusual size?

7 A. I believe there were two orders that
8 were identified and reported.

9 Q. And those were of buprenorphine?

10 A. Buprenorphine, yes. You can say
11 Subutex, which is the brand name of the single
12 entity.

13 Q. Neither one of those were hydrocodone
14 combination products; right?

15 A. That is correct.

16 Q. Both of those were orders that were
17 detected at HBC or were those detected by retail
18 pharmacies?

19 A. They were detected --

20 MR. KOBRIN: Object to form.

21 THE WITNESS: They were detected
22 corporately.

23 BY MR. HUDSON:

24 Q. And when you say corporately, what do
25 you mean?

1 A. In the office we created a reporting
2 system to see if there were -- among the other
3 tools that we had and the other policies and
4 procedures in place, a tool to assist us in
5 looking at, as I stated earlier, looking at
6 monitoring drug movement throughout the
7 organization.

8 Q. And was that the threshold reports?

9 A. Threshold was a tool that assisted in
10 the process.

11 Q. When was this process put in place?

12 A. Specific date I don't recall. You may
13 have to refresh me. But I would say somewhere
14 2013-ish.

15 Q. Who put the process or practice in
16 place?

17 MR. KOBRIN: Object to form.

18 THE WITNESS: It was a team approach.

19 BY MR. HUDSON:

20 Q. Was this the project with Kayla Voelker?

21 A. Correct.

22 Q. And she then created the daily
23 suspicious reports?

24 A. Well, the white board planning would
25 have been involving more Shawn Boyton. Kayla was

1 the execution piece for generating the reports.

2 Q. And were you also involved?

3 A. Yes.

4 Q. So did you and Shawn Boyton -- you then
5 white boarded a process or a practice to follow to
6 flag suspicious orders?

7 MR. KOBRIN: Object to form.

8 THE WITNESS: Shawn was more well versed
9 in the systems, the inventory systems piece beyond
10 me. That was outside of my expertise. The
11 nitty-gritty of it I should say.

12 BY MR. HUDSON:

13 Q. Describe for me how the process or
14 practice worked.

15 MR. KOBRIN: Object to form. No
16 foundation.

17 THE WITNESS: Once the report was
18 generated you mean?

19 BY MR. HUDSON:

20 Q. In general -- sorry. I didn't mean to
21 interrupt you. I'll start over.

22 At some point in 2013, you and Shawn Boyton
23 sat down and white boarded out a process for
24 monitoring shipments of prescription drugs; right?

25 MR. KOBRIN: Object to form.

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1 A. I have no idea.

2 MR. KOBRIN: Object to form.

3 THE WITNESS: I don't recall the
4 specific date that they began.

5 BY MR. HUDSON:

6 Q. Any reason to believe it wasn't October
7 of 2013?

8 A. Again, I don't know the date it started,
9 the exact date, but somewhere.

10 Q. I've represented to you the earliest
11 ones I could find is October 2013.

12 My question is just: Is there any reason
13 that you have to believe that these reports were
14 being created before October of 2013?

15 A. I don't have, based on the refresh, have
16 any documentation to say that they were created
17 before.

18 Q. So who created -- by the way, is that an
19 SQL? Have you heard that phrase before?

20 MR. KOBRIN: Object to form.

21 THE WITNESS: I've heard it. I'm not an
22 Excel person, to tell you the truth. So I
23 couldn't create it.

24 BY MR. HUDSON:

25 Q. Just tell me what you know about how

1 this daily control report worked. What would
2 happen?

3 MR. KOBRIN: Object to form.

4 THE WITNESS: It is a report that would
5 be the -- it was a daily report and reviewing or
6 identifying stores that had been shipped
7 quantities to -- based on our first pass at what
8 a, as they call them, fresh quantity, again our
9 first pass at what that would be, how their
10 accumulation for the calendar month would be.

11 BY MR. HUDSON:

12 Q. Would these be generated each day?

13 A. Correct.

14 Q. Then who received them?

15 A. I don't have the email list. I received
16 them. There were a number of people that received
17 them.

18 Q. You received the report each day or you
19 received an email or how -- in what form did you
20 receive a report?

21 MR. KOBRIN: Object to form.

22 THE WITNESS: The report came via email,
23 but I cannot recall generated directly from the
24 system or forwarded over after it was -- if it was
25 run, if it was an automatic distribution.

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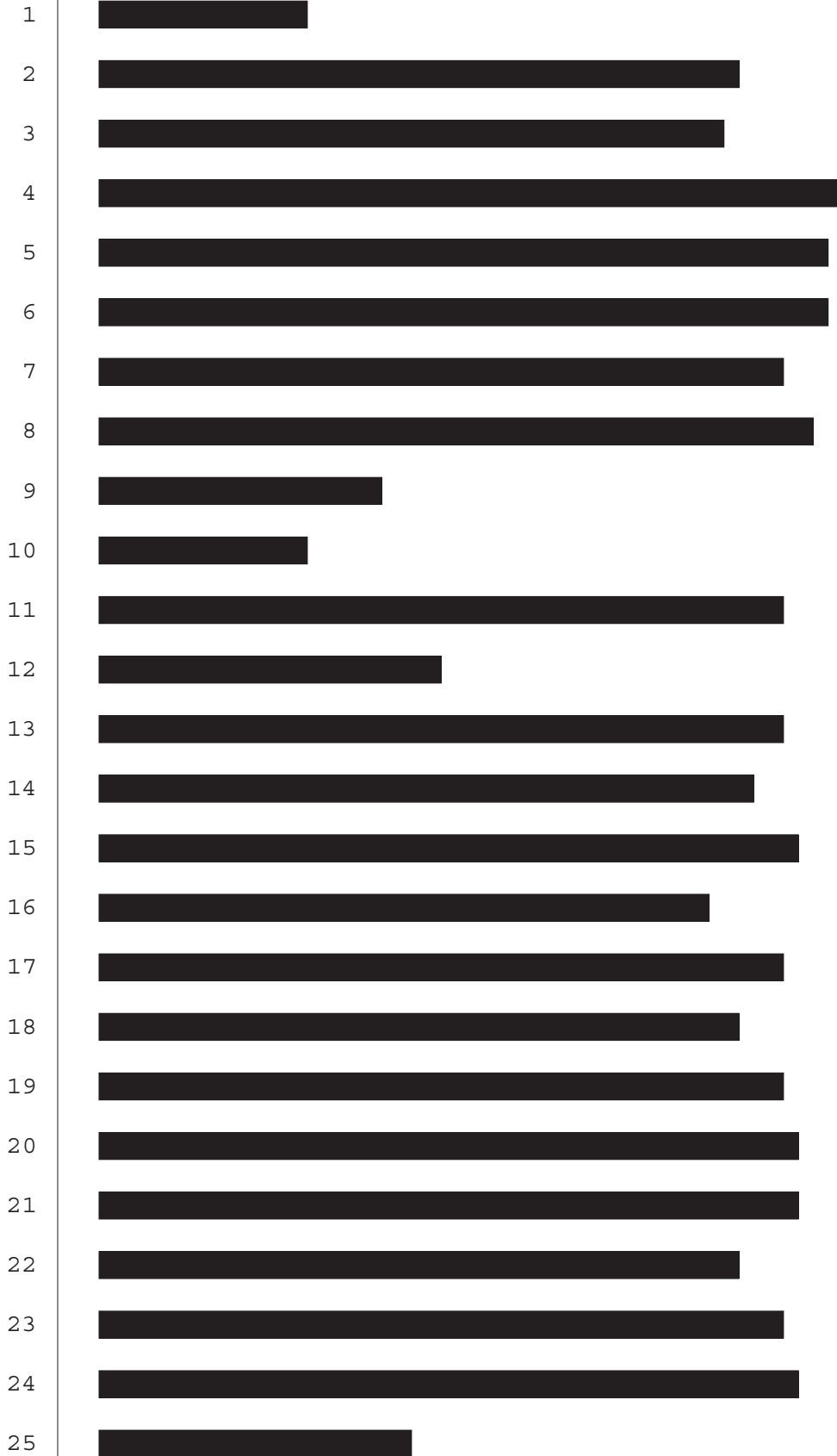


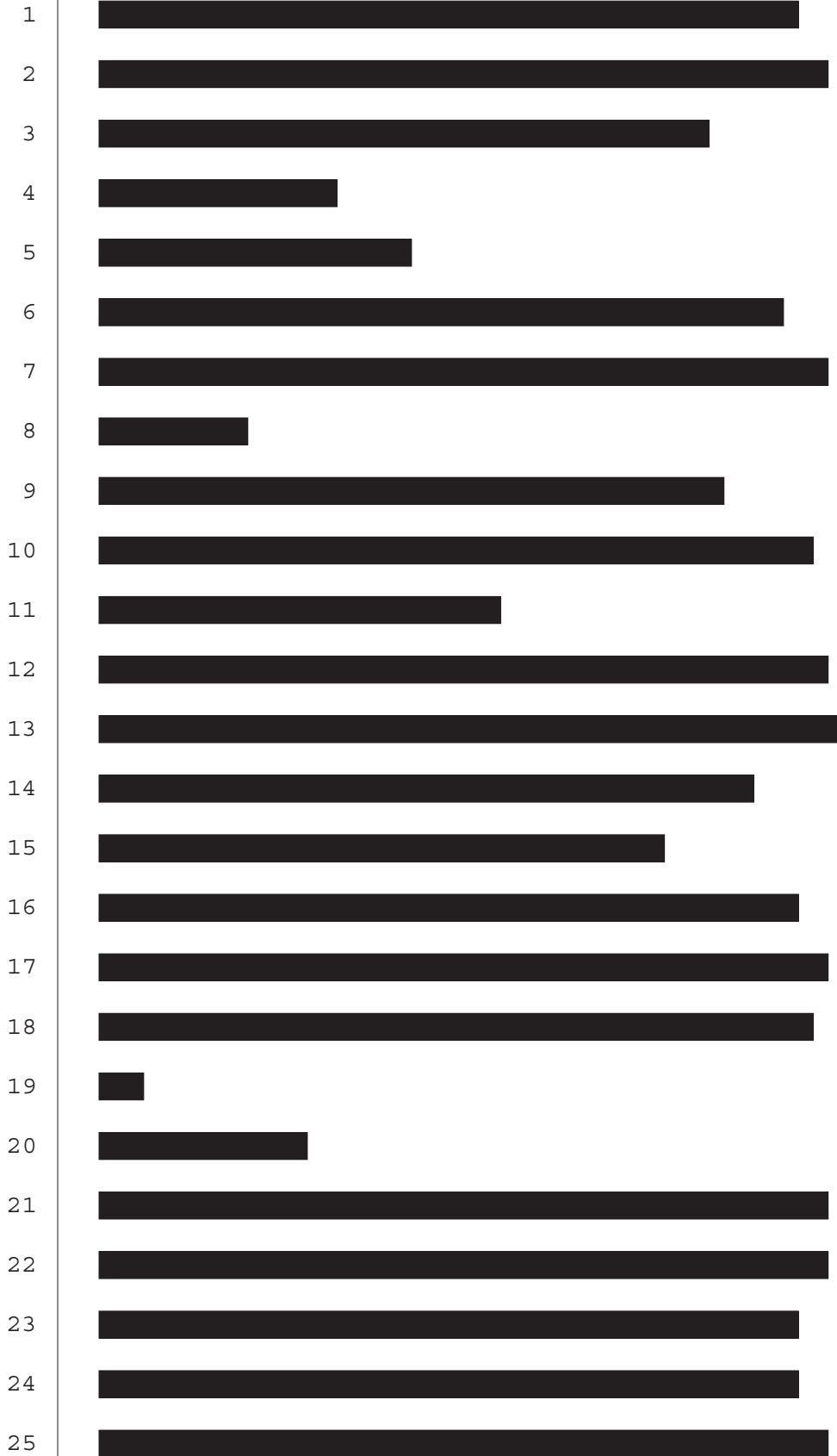




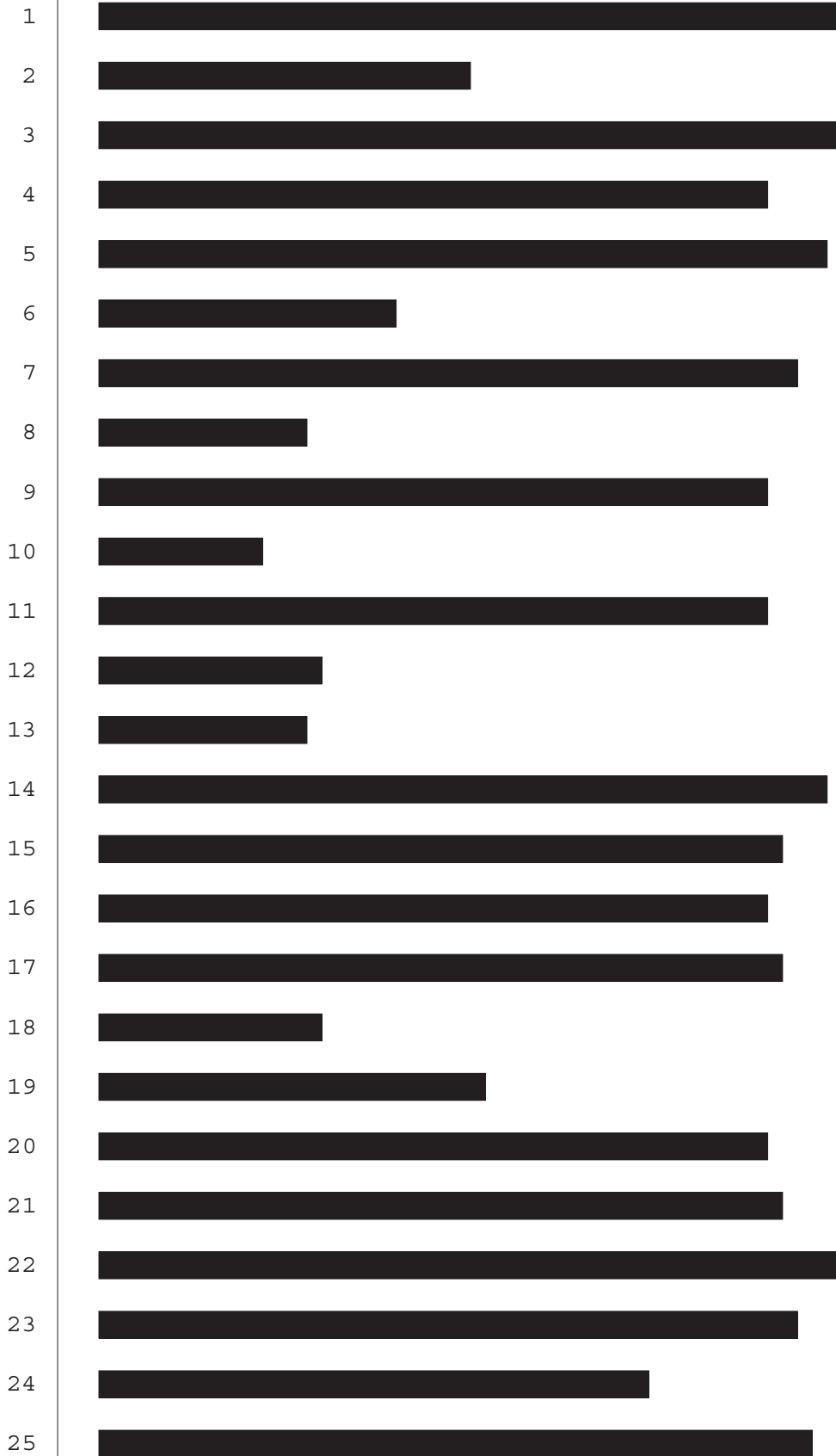


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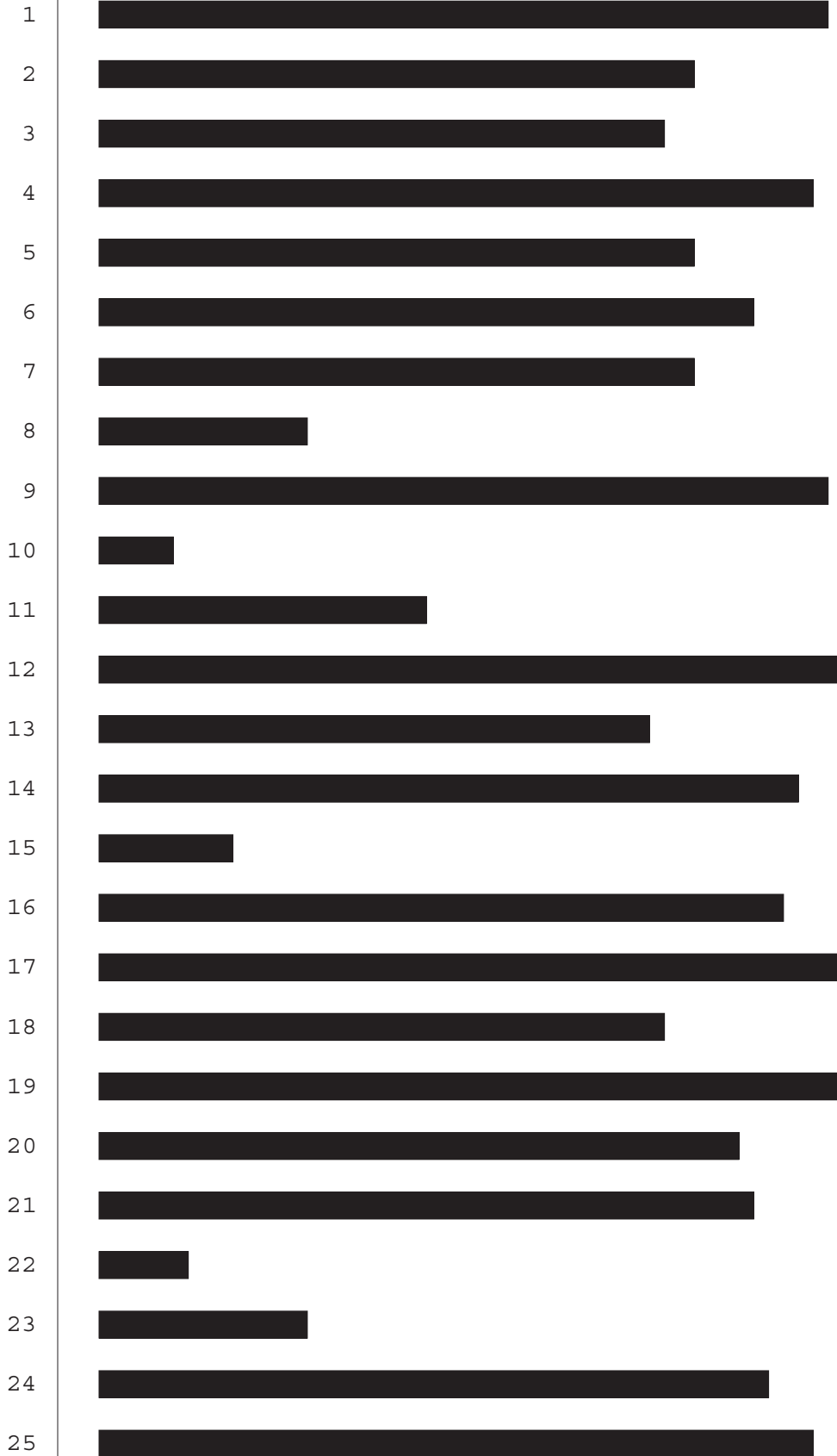


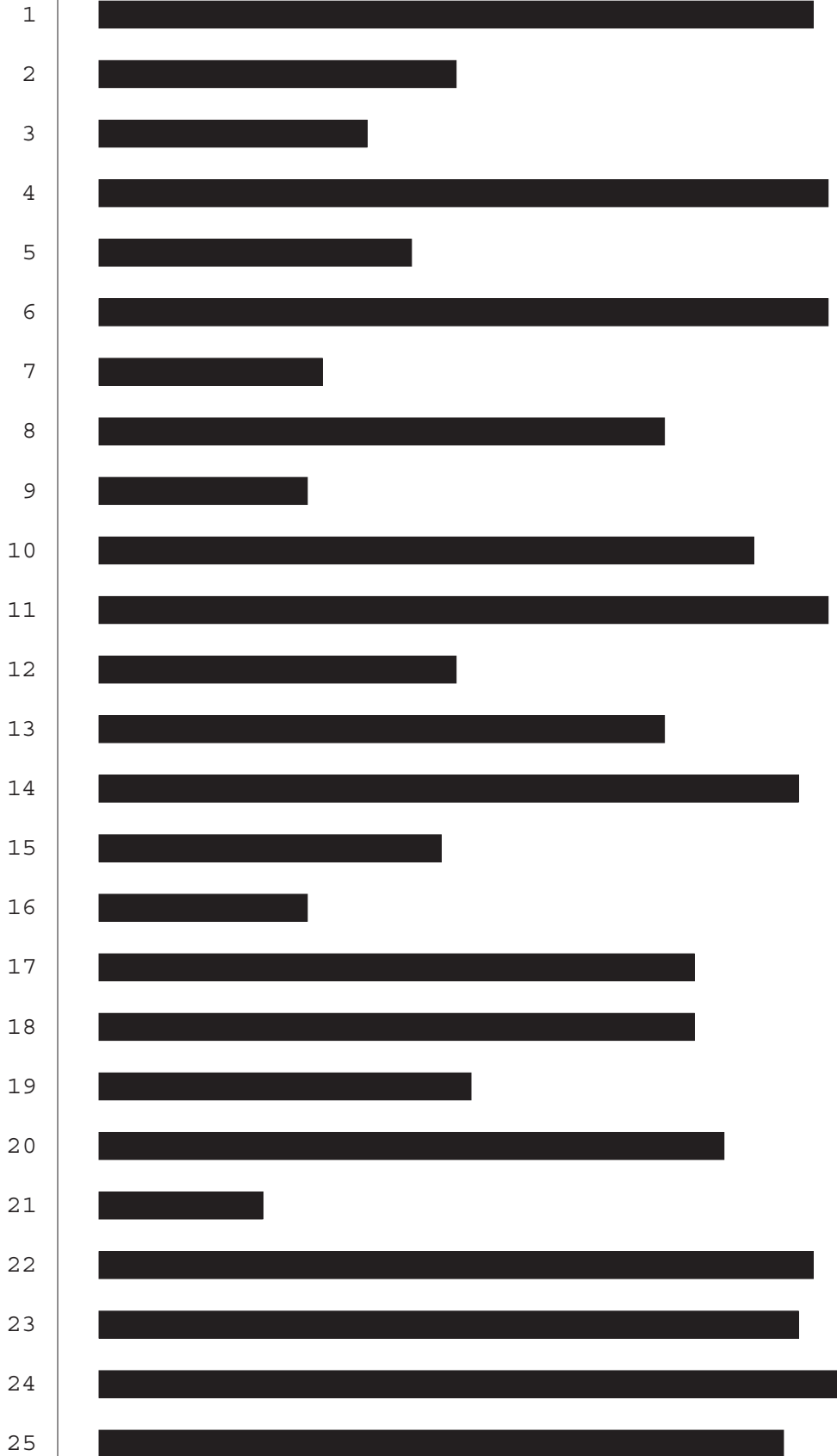




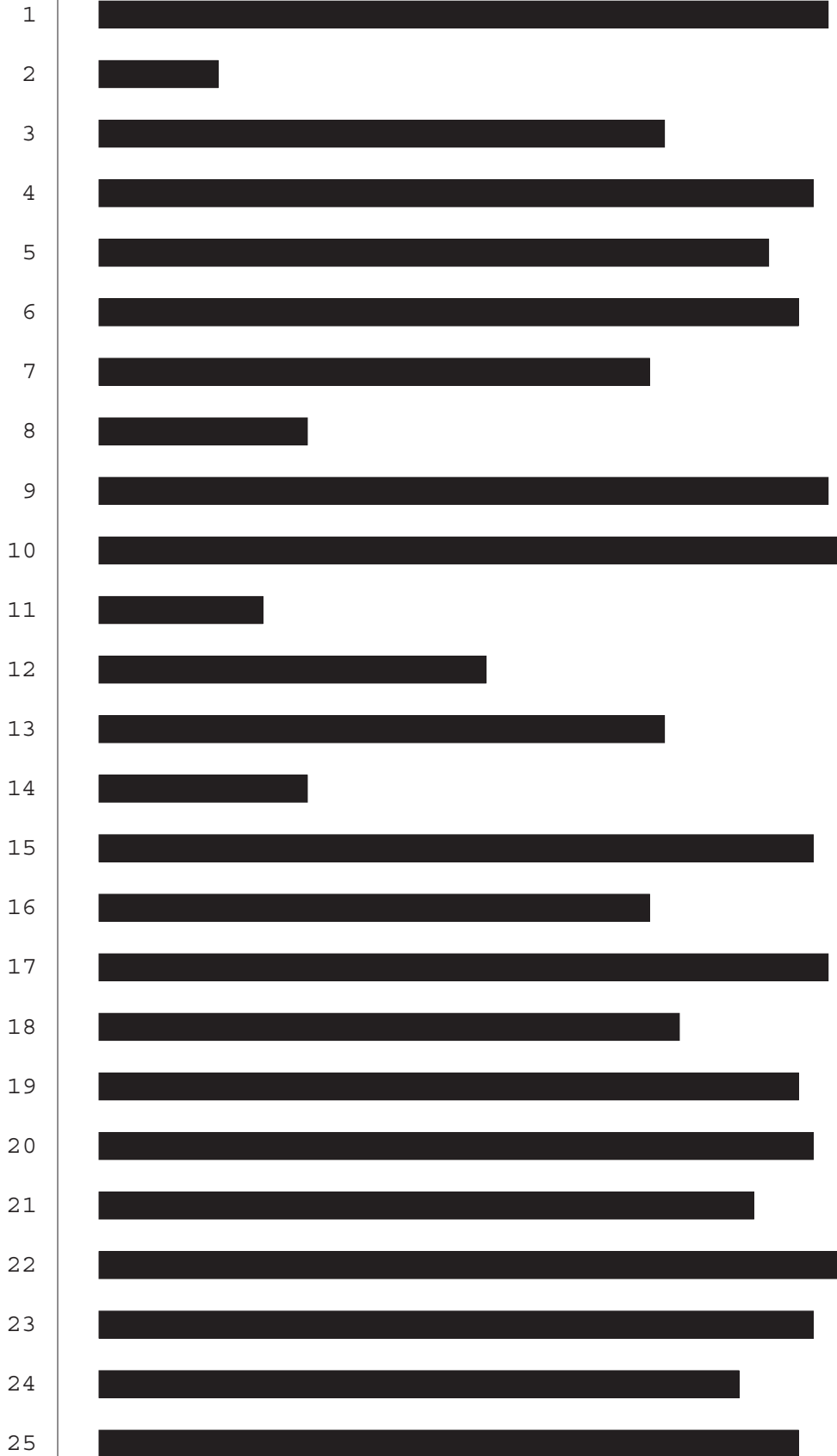


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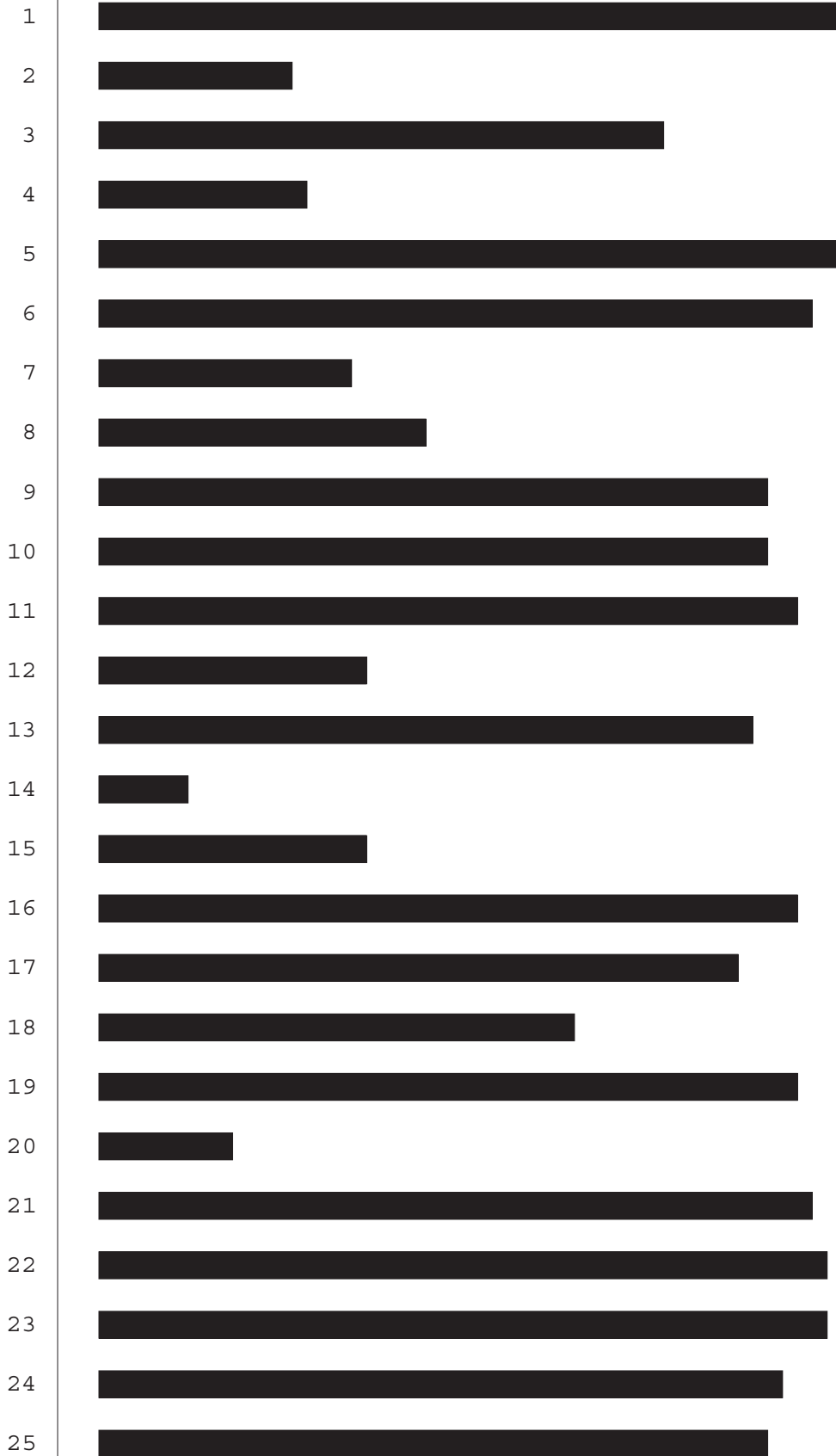




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1 A. Anybody who received the report could
2 reach out. Nothing precluded those individuals
3 from doing so.

4 Q. Was there a process in place? How did
5 you decide who did what?

6 A. The process would be either George or I
7 would reach out to that pharmacy district leader
8 to contact, contact either by phone, email or
9 physical on-site visit.

10 Q. Then as a result of that review or
11 investigation, if there was reason to believe that
12 the order was not legitimate, then you would
13 report that to the DEA and stop the shipment?

14 A. So based on their -- so the PDL is --
15 the report triggers the PDL's review of the store.
16 Report is forwarded down. Ultimately, they're the
17 one going in or having that discussion.

18 And then if the movement is deemed as -- so
19 if the movement is deemed as suspicious in the
20 case of a store where we had a change in
21 prescribing pattern, then shipments to the store
22 would be deemed suspicious, stopped and reported
23 to the DEA.

24 Q. In your time at Giant Eagle, there were
25 only two times that reports were made to the DEA;

1 correct?

2 A. That's correct.

3 Q. So in your time at Giant Eagle, you're
4 aware of only two suspicious orders that existed
5 of shipments from HBC to Giant Eagle; correct?

6 A. There were two occasions when the
7 movement, in this case not theft, but an unusual
8 prescribing pattern of buprenorphine products were
9 flagged or stopped, reported. The store was --
10 shipments to the store for that chemical were
11 halted and the -- which then the team interviewed,
12 retrained on the controlled substance dispensing
13 guidelines, the guidelines in the pharmacist
14 manual from the DEA, as far as understanding and
15 catching red flags, dispensing red flags, in this
16 case, prescriptions from a set of -- subset of
17 prescribers.

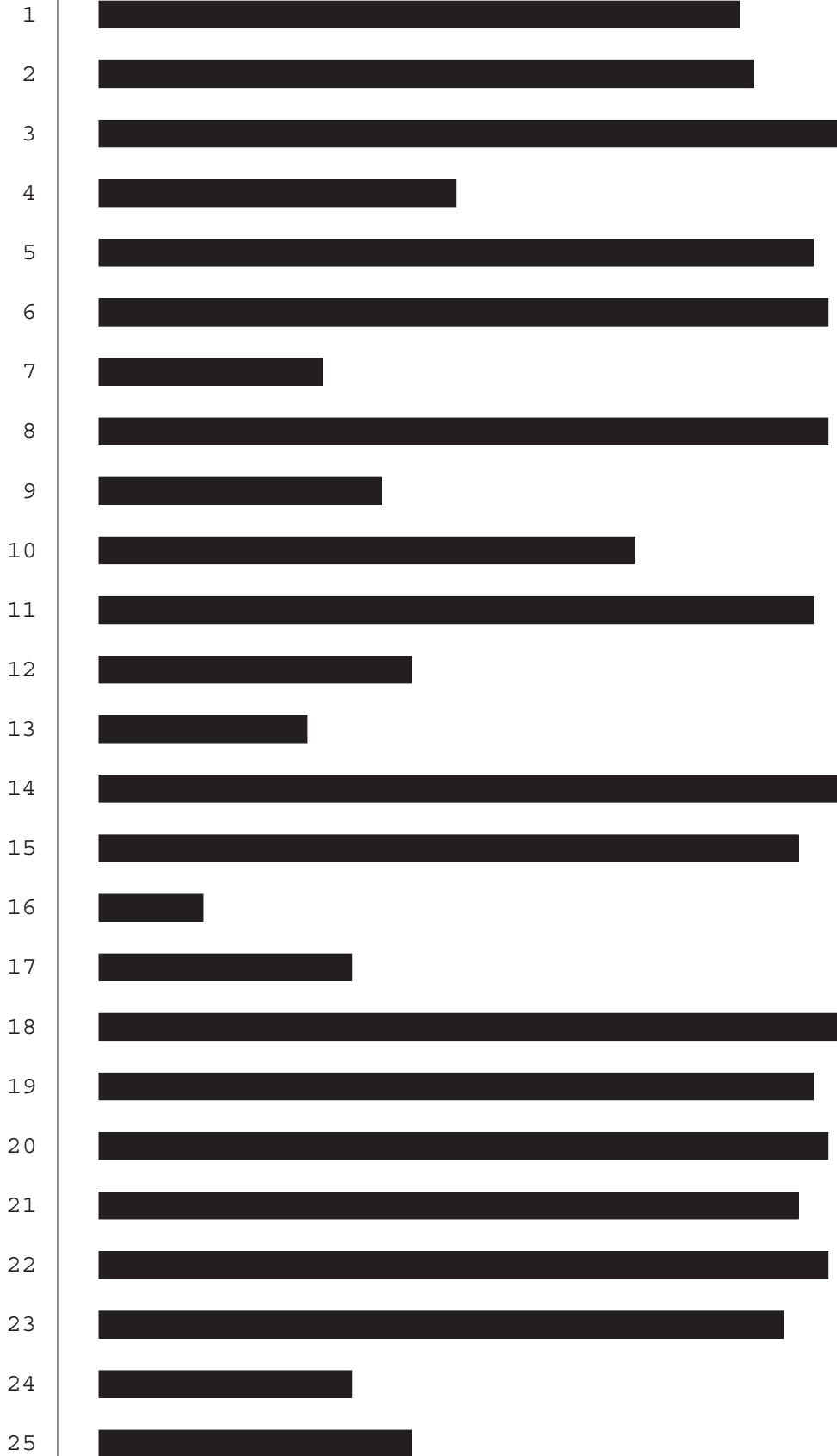
18 Q. I guess what I was getting at is all
19 suspicious orders from Giant Eagle -- I'm sorry --
20 from HBC to Giant Eagle were reported to the DEA;
21 correct?

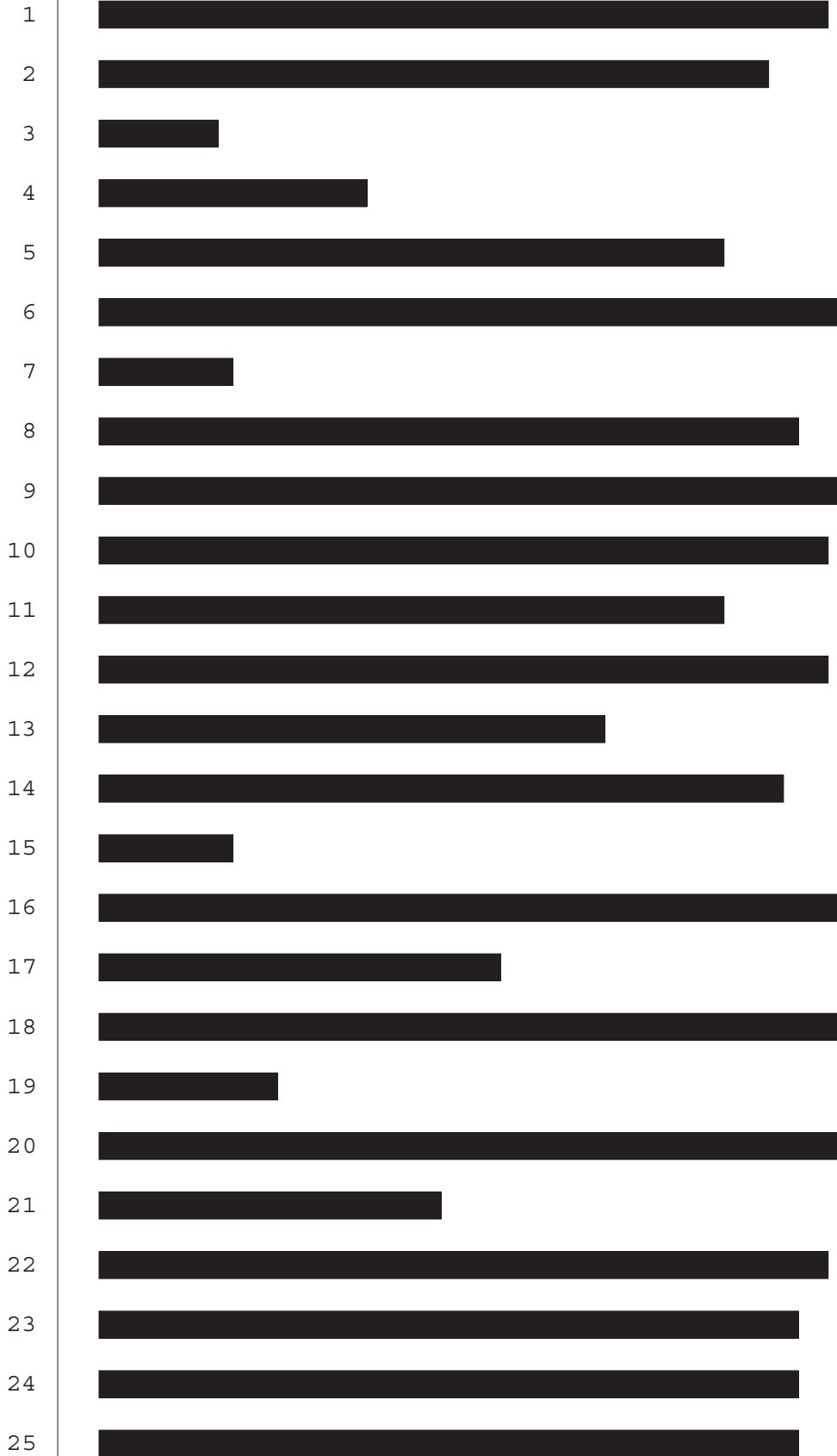
22 MR. KOBRIN: Object to form.

23 THE WITNESS: The two suspicious orders
24 identified were reported to the DEA.

25



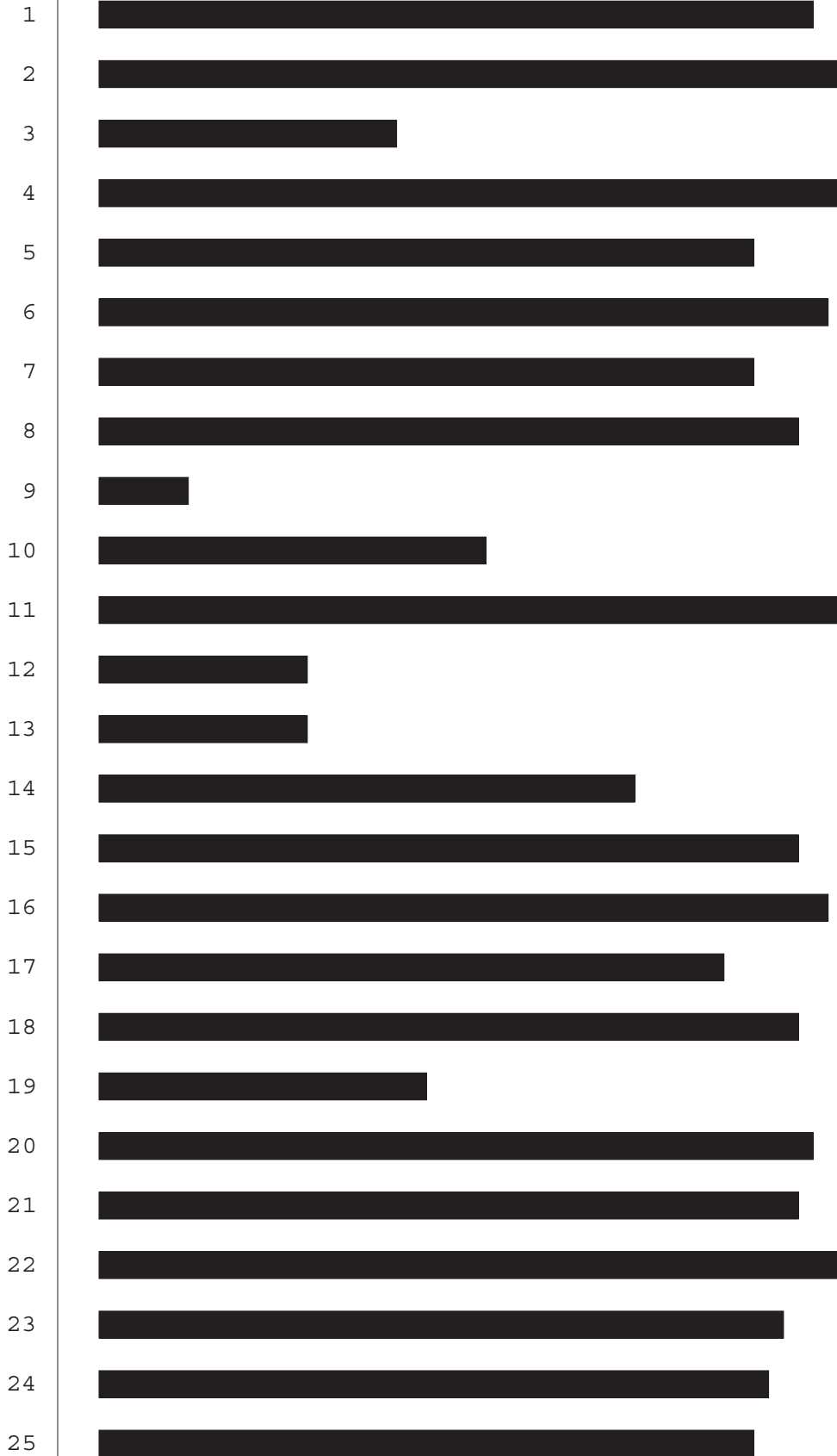




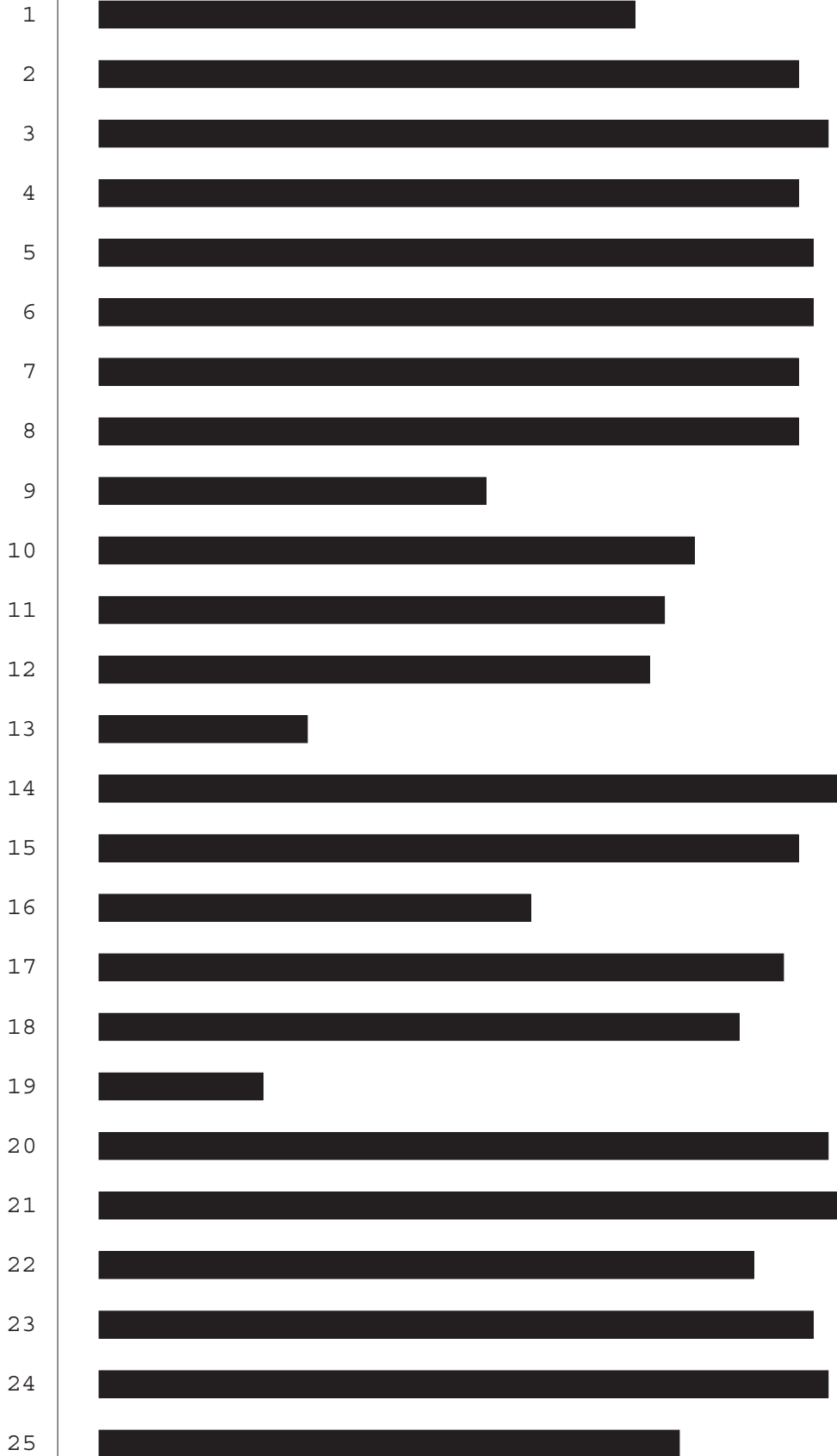






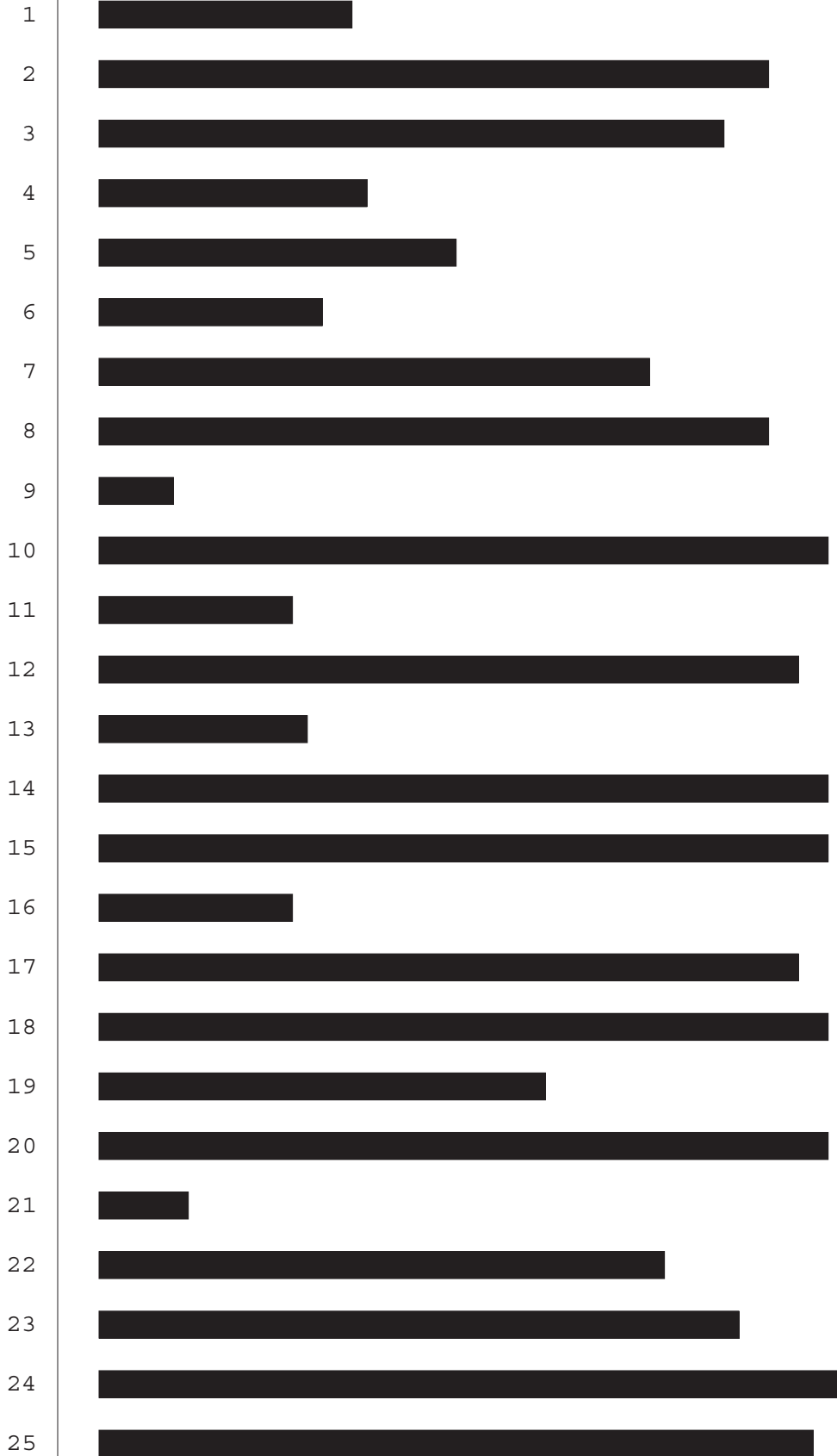


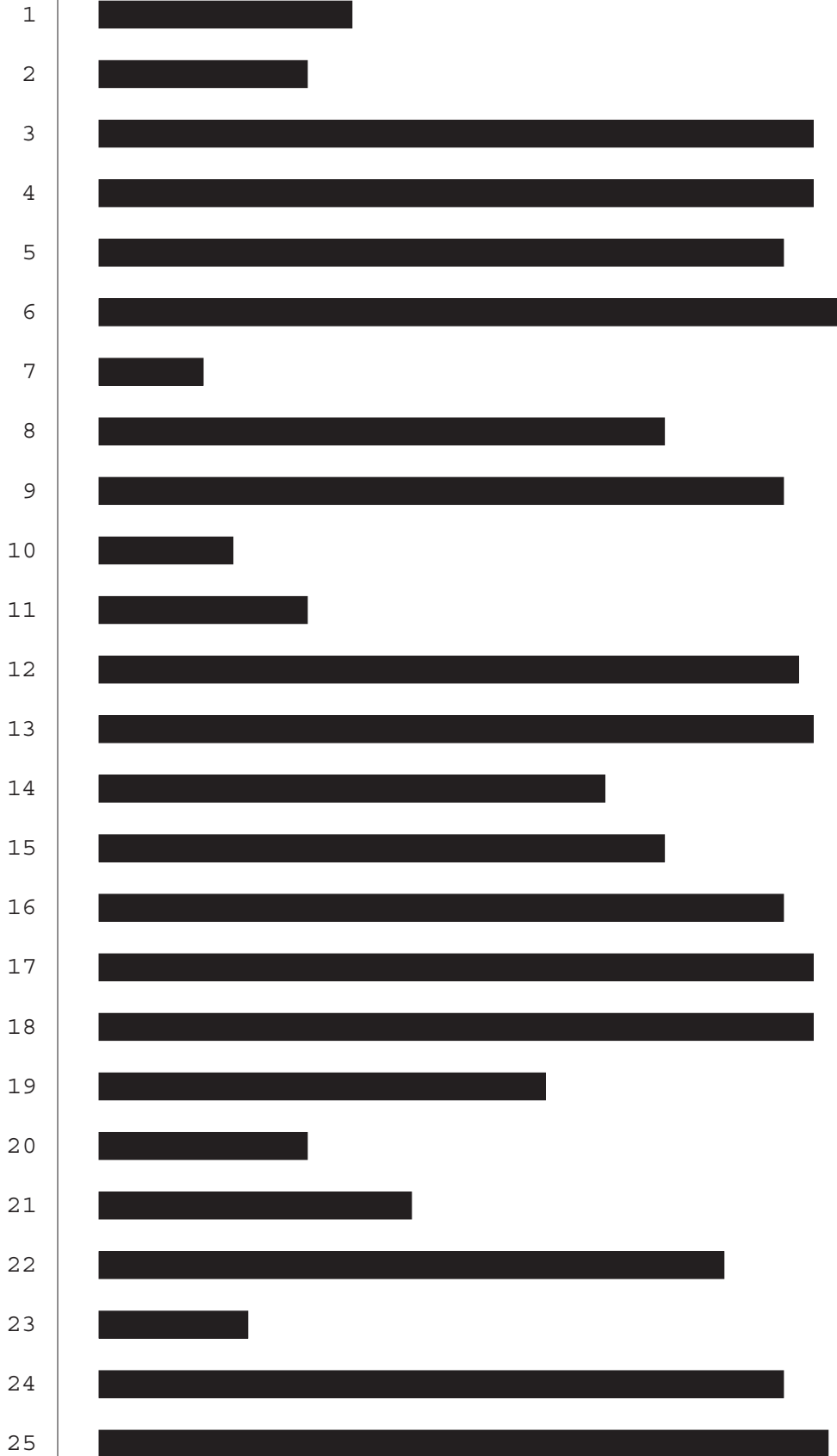


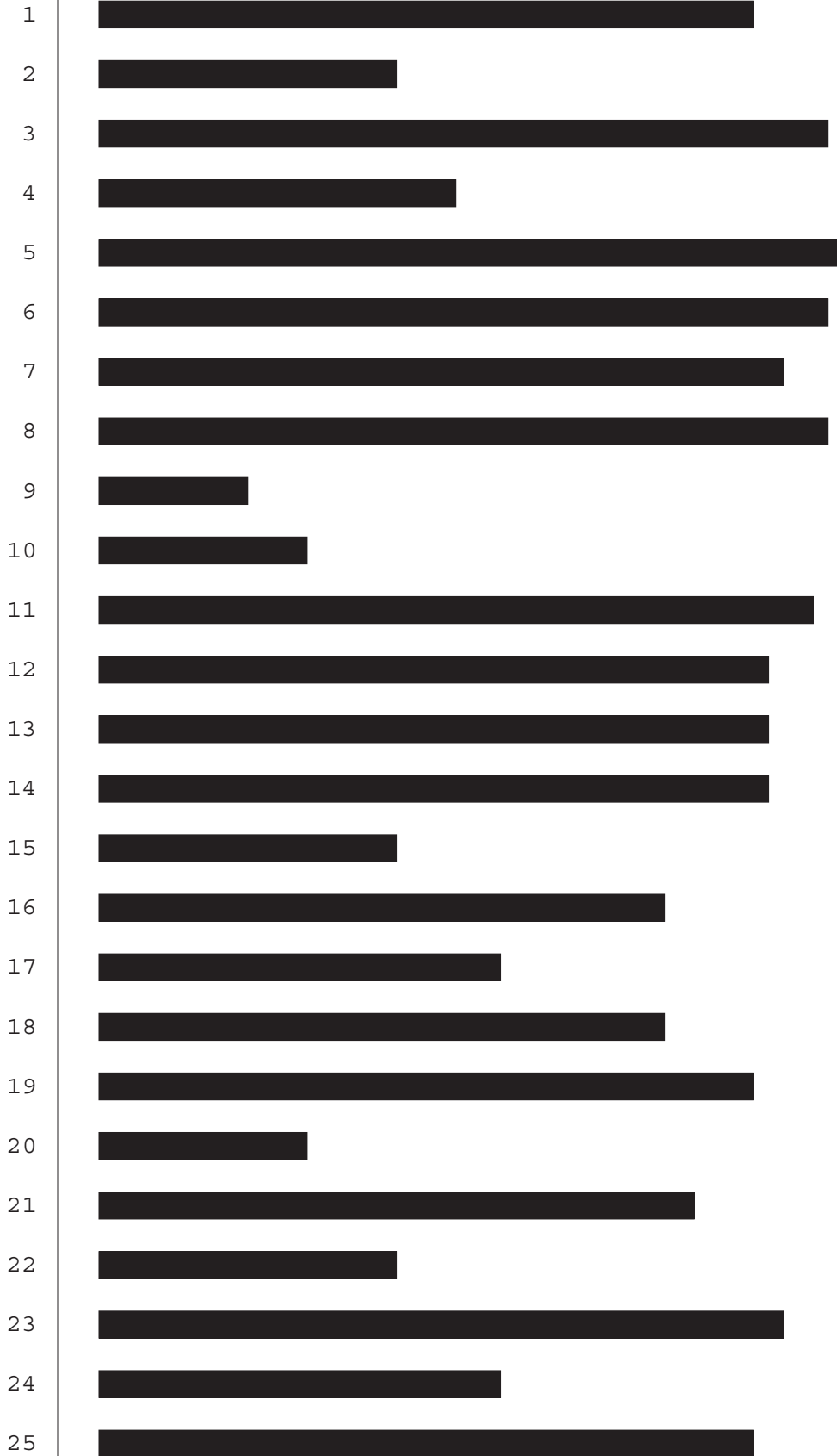




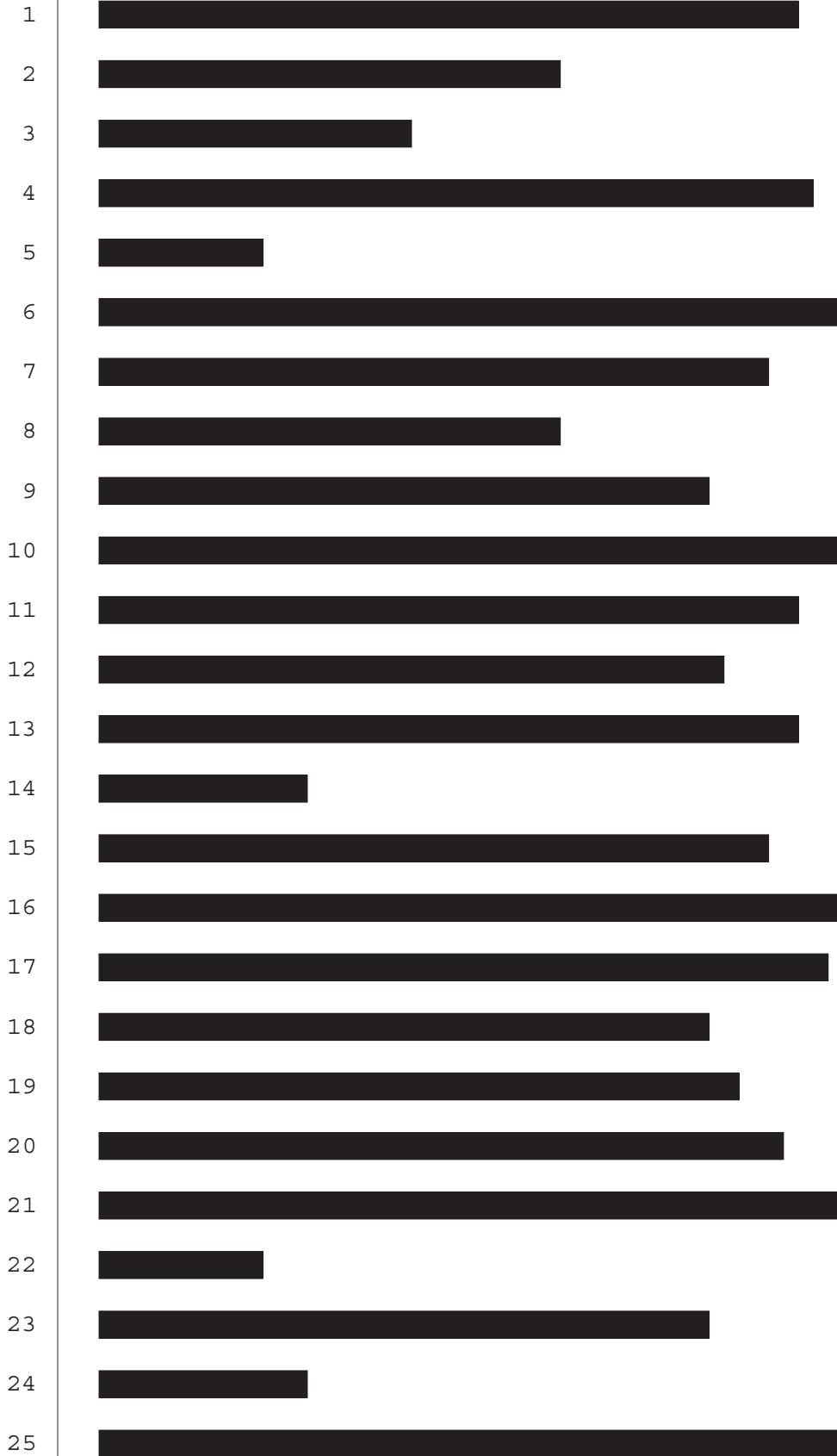


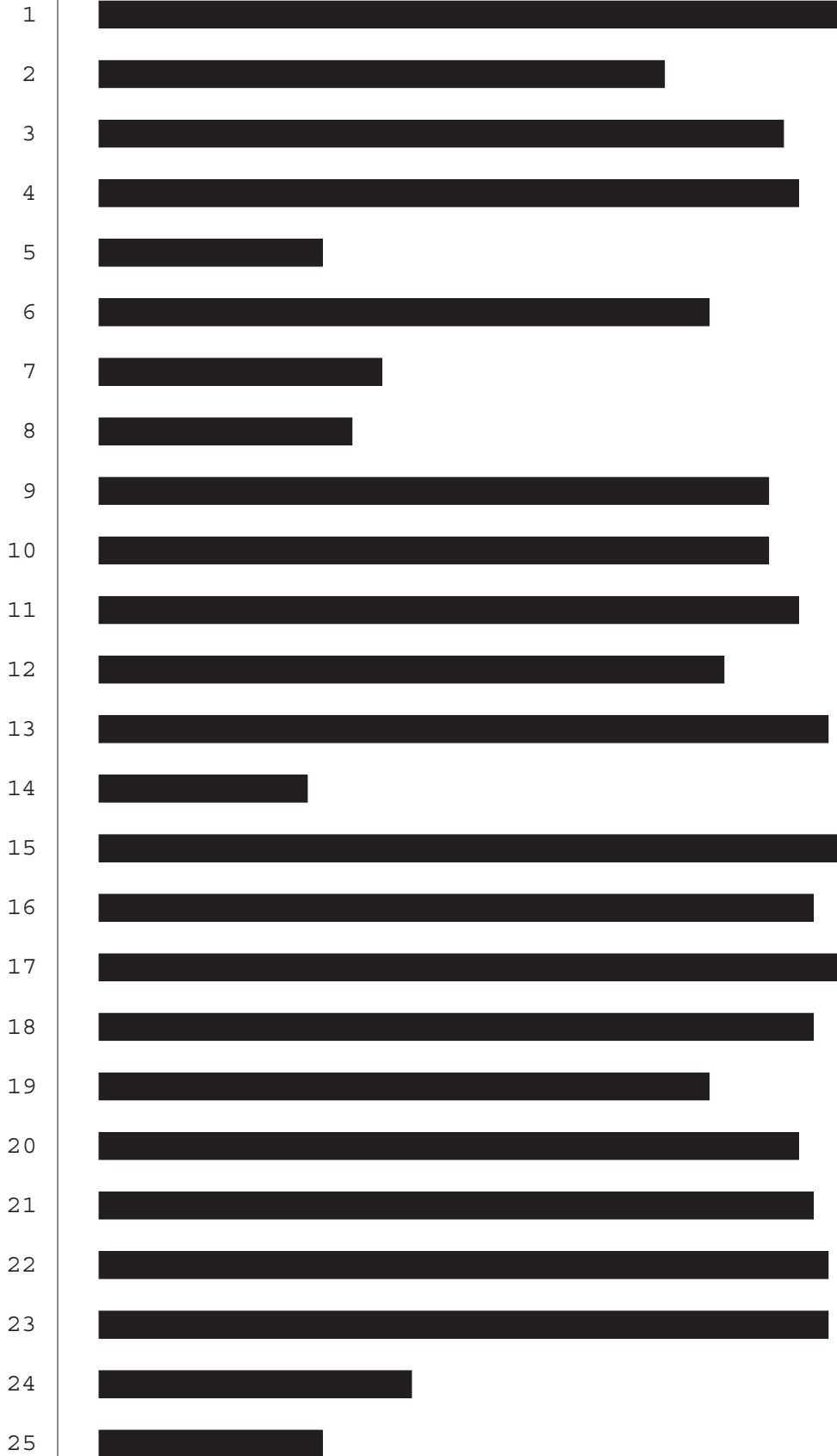








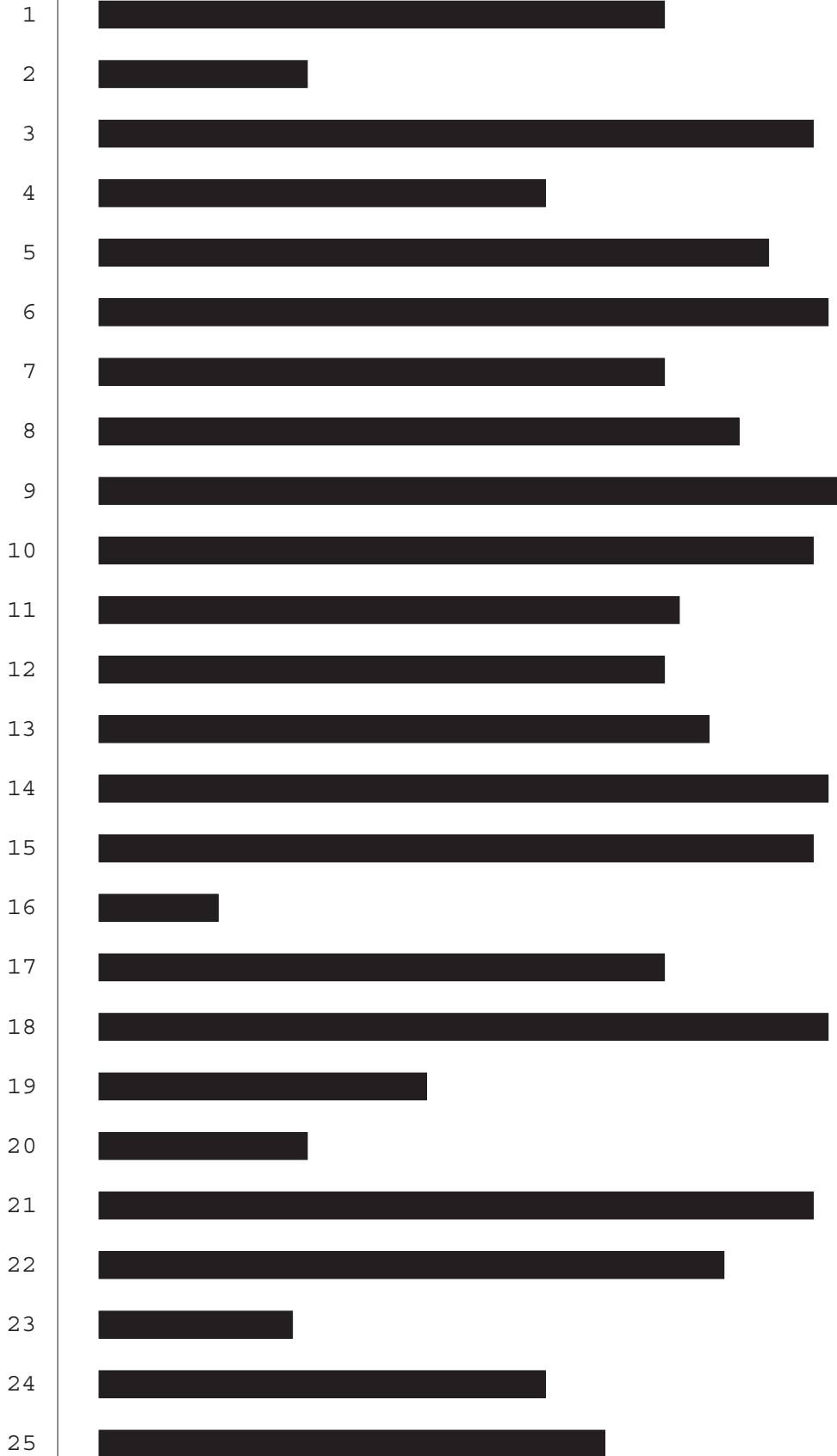


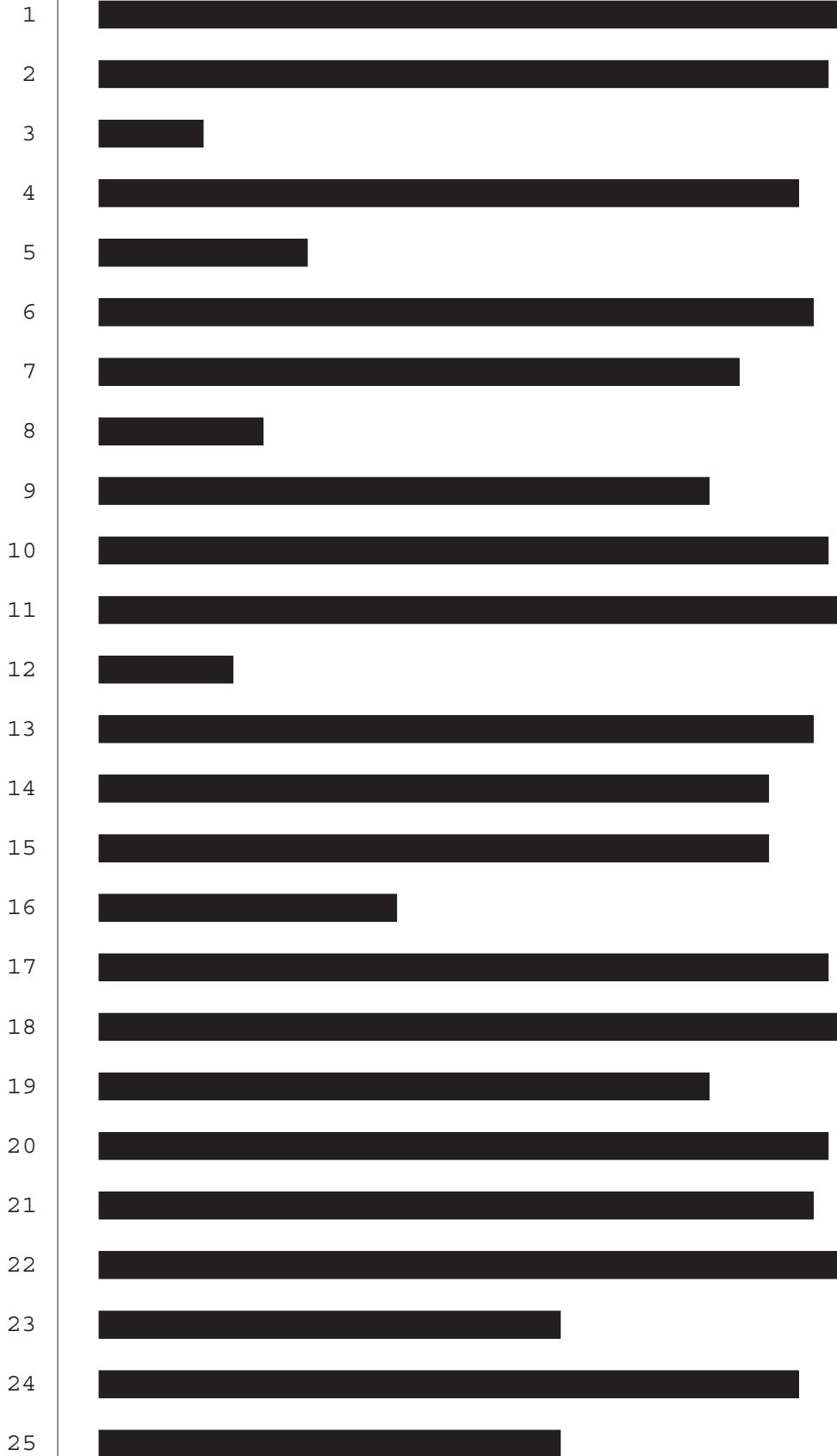




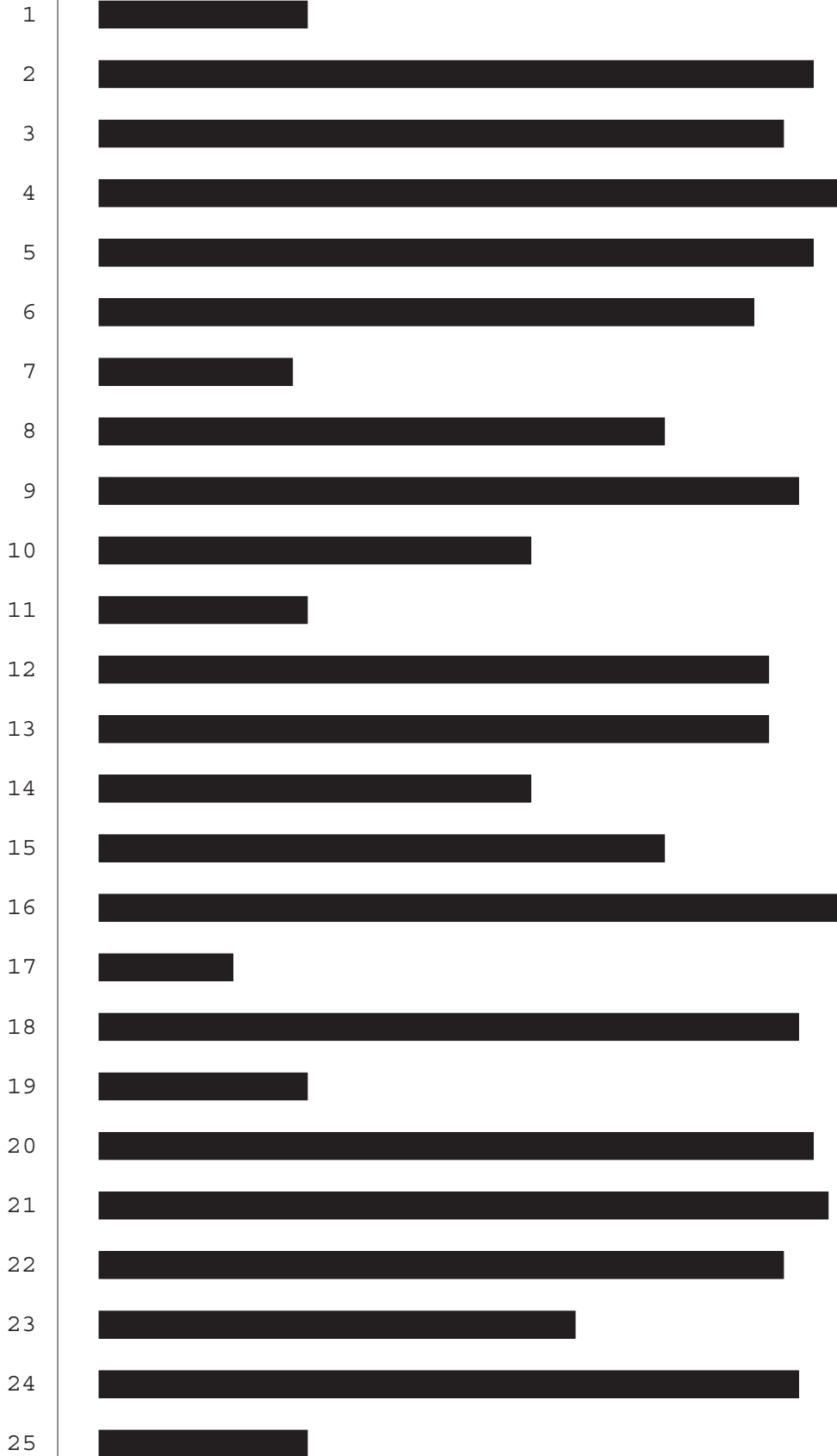




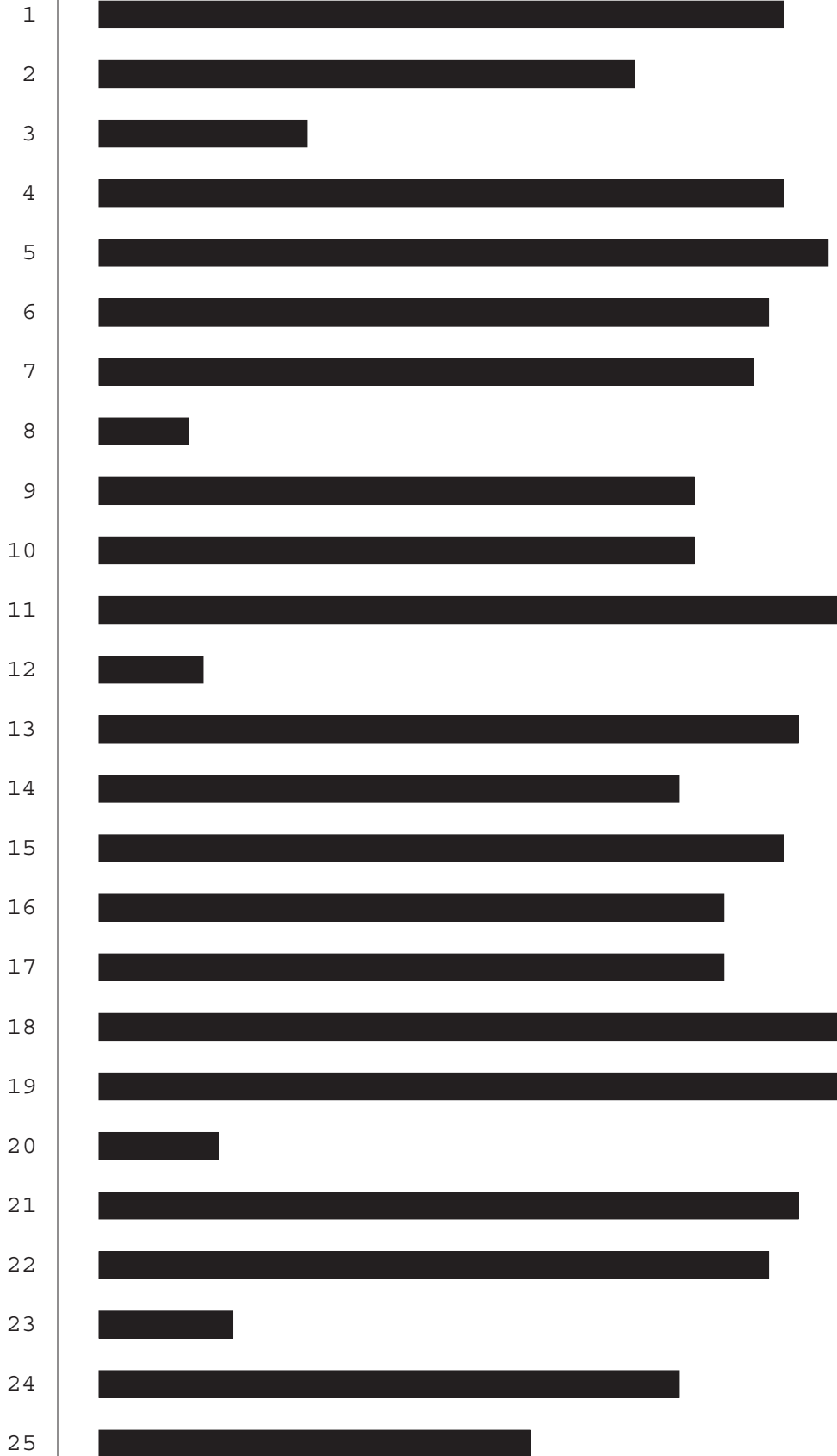




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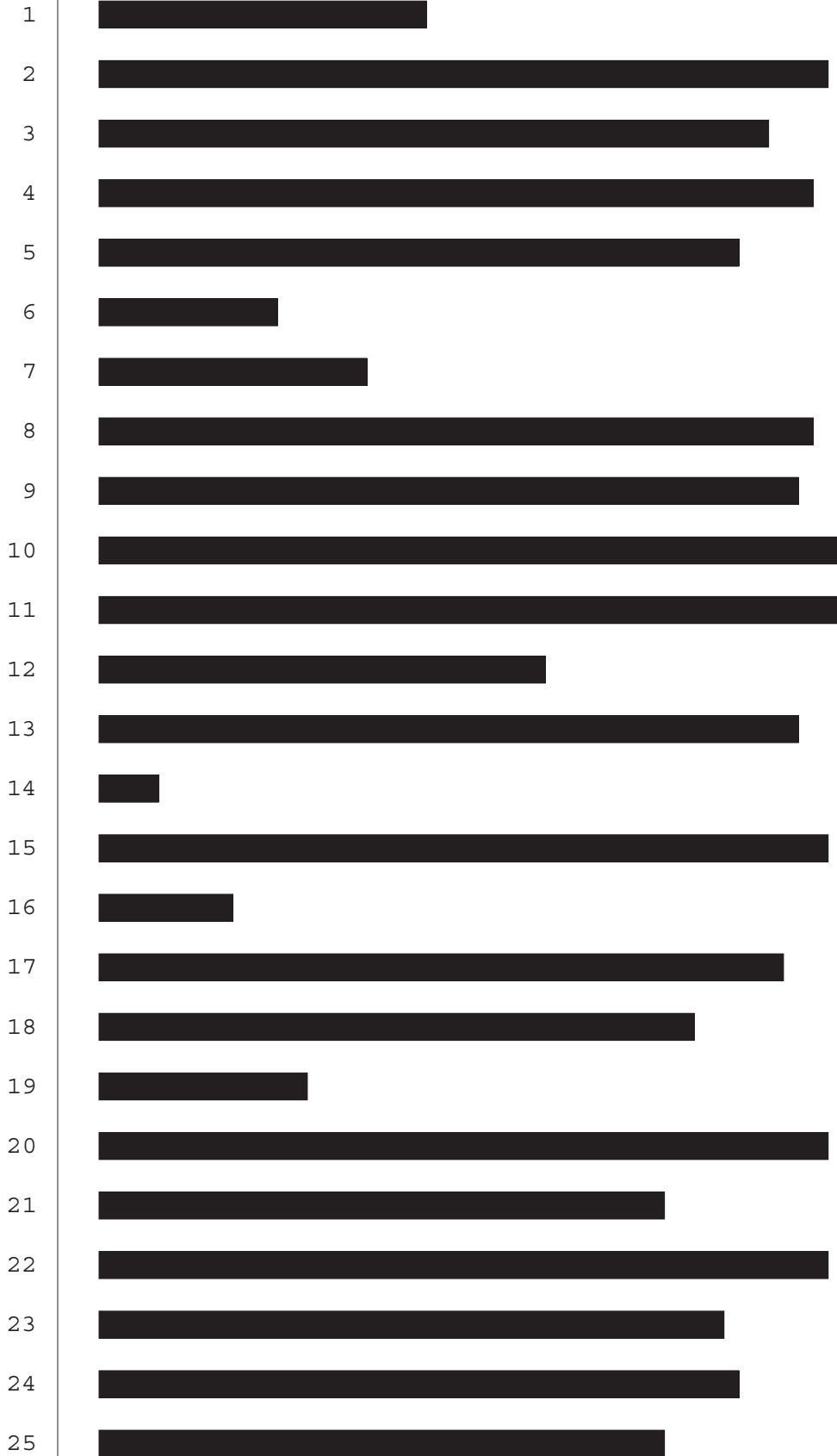












1 BY MR. HUDSON:

2 Q. Is that type of business at higher risk
3 for diversion?

4 MR. KOBRIN: Object to form.

5 THE WITNESS: Well, not being in that
6 business, I can't say, because I don't -- I don't
7 know necessarily. Okay? But that type of
8 business certainly has -- requires or garners a
9 significant amount of, let's say, review from the
10 DEA. And I didn't believe in it, don't believe
11 that was the right thing for any of our business.

12 BY MR. HUDSON:

13 Q. Do you know whether or not Giant Eagle
14 retail pharmacies were filling prescriptions that
15 were being written at pain management clinics?

16 A. Giant Eagle pharmacies were filling
17 prescriptions brought by patients that were -- the
18 pharmacists were required to do their due
19 diligence to determine is that a legitimate
20 prescription for a legitimate medical use from a
21 physician acting in their course of practice.

22 So I believe whether it's from a dentist, as
23 long as the pharmacist made their -- exercised
24 their corresponding responsibility to determine
25 that prescription was legitimate, I believe the

1 prescription was -- that they acted in the course
2 of their professional practice as the pharmacist
3 in determining that.

4 Q. But as a pharmacist, how do you know if
5 the prescription is coming from a legitimate
6 doctor or an illegitimate doctor?

7 MR. KOBRIN: Object to form.

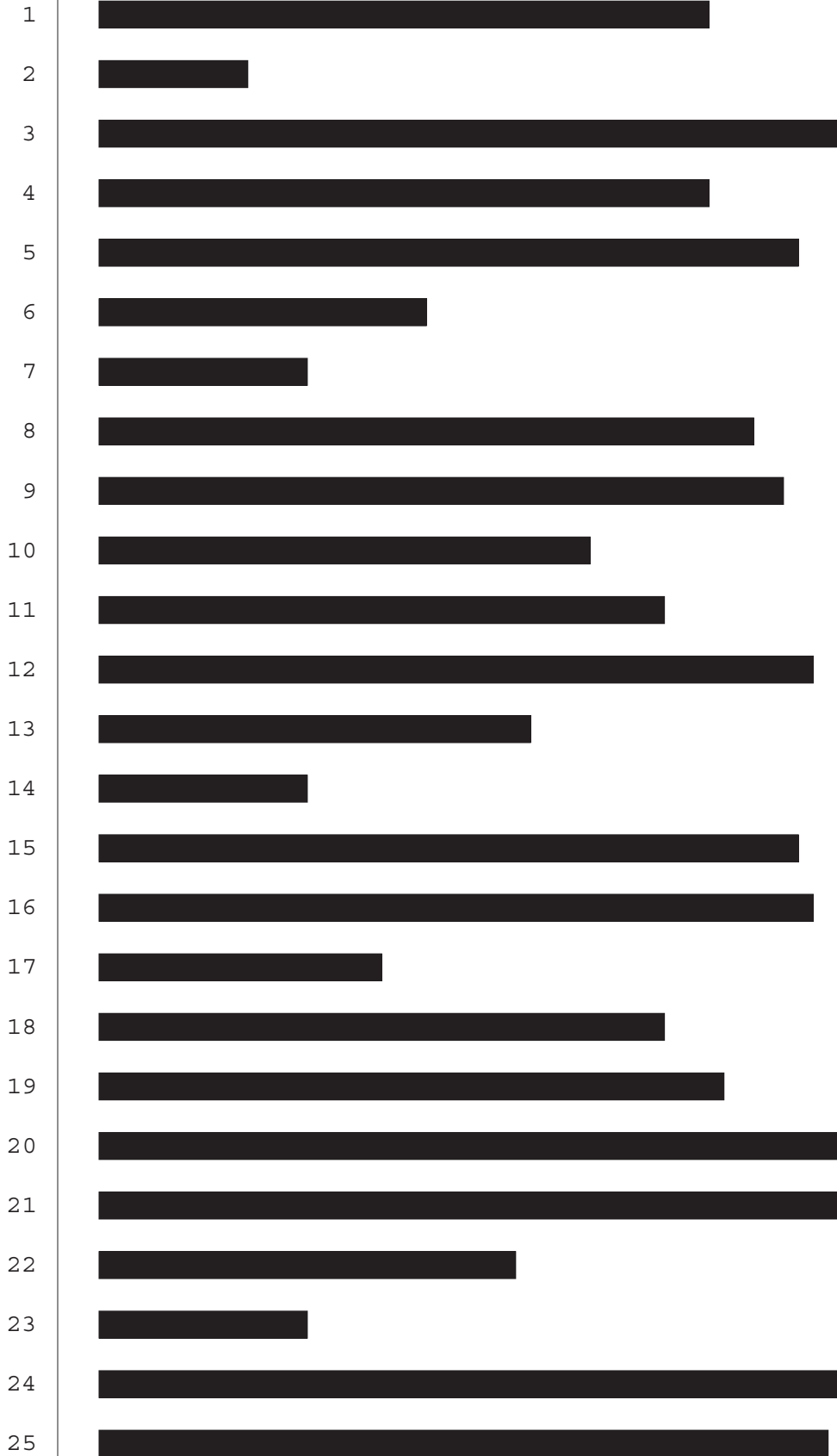
8 THE WITNESS: That's a very interesting
9 question. You have to do your due diligence and
10 make your individual determination based on the
11 prescription, the prescribing pattern of the
12 physician, the patient, to determine is this a --
13 is it being used for legitimate use. It could be
14 talking to the patient, saying, why are you using
15 this.

16 In our controlled substance dispensing
17 guidelines, it's called out for the pharmacists
18 are empowered to call the doctor to get the
19 diagnoses, to get -- as far as even getting
20 progress notes. We coach them to say -- the
21 burden of proving that it's a legitimate
22 prescription falls onto the prescriber before they
23 fill that -- before they make that fill or do not
24 fill determination. That's how our pharmacists
25 were trained and coached.

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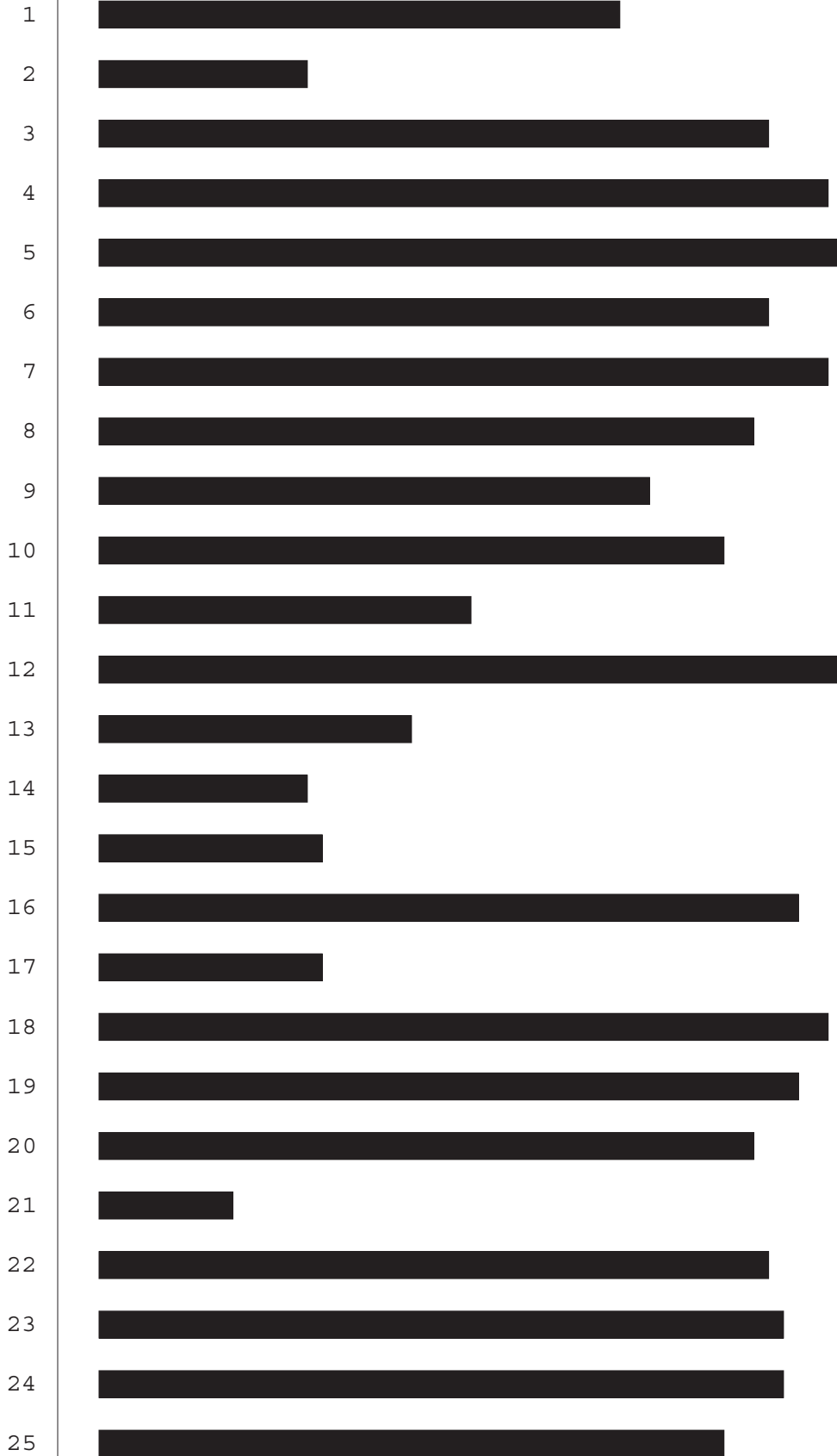
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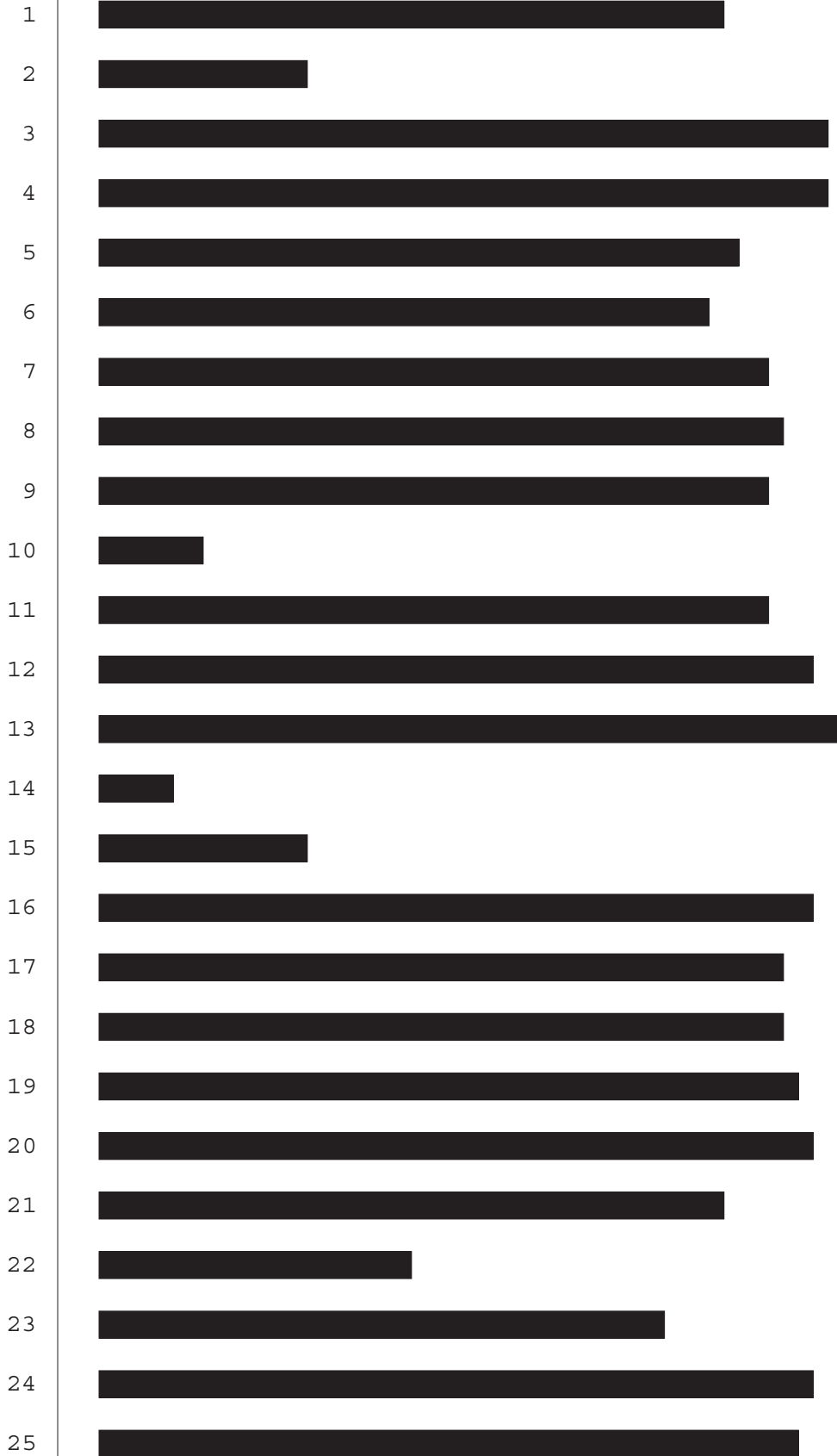


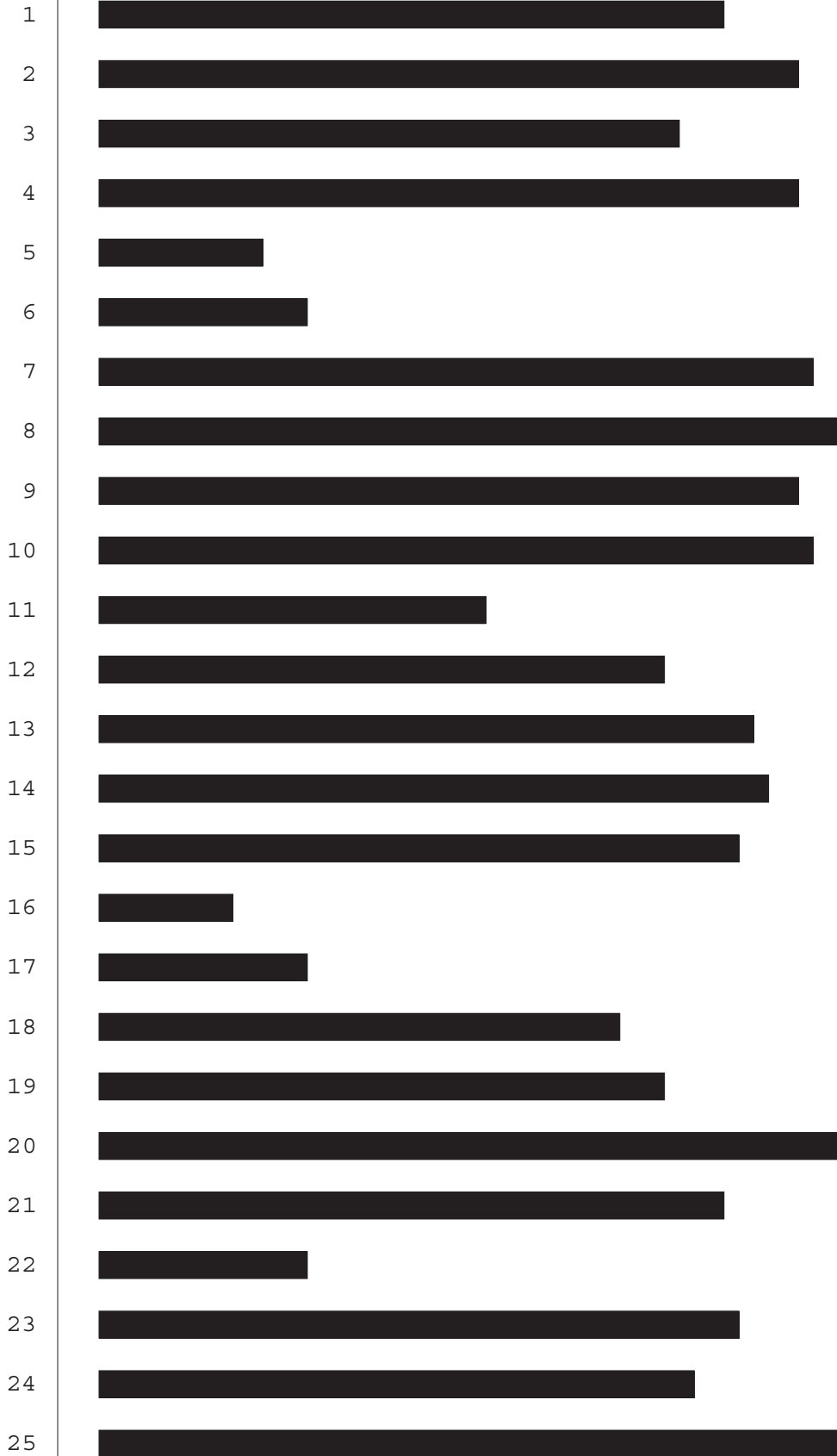






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1 distributor of those products; correct?

2 A. Again, I can't speak to what happened
3 before I was in the role, understanding -- with
4 that qualifier.

5 Q. At least while you were there though,
6 you agree there was never a shipment of
7 hydrocodone combination products that were blocked
8 from shipment at HBC; correct?

9 A. I'm not aware of any shipment that was
10 blocked.

11 Q. You agree that during the time you were
12 the senior manager of compliance, there was never
13 a shipment of hydrocodone combination products
14 where you notified the DEA that they were a
15 suspicious order; right?

16 A. Again, I'm not aware that there was a
17 flag that was deemed to be suspicious.

18 MR. HUDSON: I don't have any further
19 questions.

20 EXAMINATION

21 BY MR. KOBRIN:

22 Q. Mr. Millward, you were asked earlier
23 today about stopping shipments on orders of
24 interest while they were being investigated.

25 Do you recall that line of questioning?

1 A. I do.

2 Q. Tell me, are there different means
3 through which Giant Eagle or HBC investigates an
4 order of interest?

5 A. Yes. We talked at length about the
6 threshold or the Voelker report, so to speak, but
7 there were other systems in place. Giant Eagle
8 invested in two tools from a company by the name
9 of Supply Logics.

10 Supply Logics had two products, Pinpoint
11 Monitor and Pinpoint Audit, one looking at
12 pharmacy purchasing patterns, the other looking at
13 pharmacy dispensing patterns.

14 Giant Eagle also invested in a dedicated
15 person to review those or to have access and
16 review those tools to look for any -- really as a
17 redundant mechanism to look for any kind of
18 movement of controlled substances that could
19 potentially be a flag for investigation.

20 Q. Just to clarify the record, are there
21 situations where through this investigation you
22 could stop an order of interest before it shipped?

23 A. That is correct. If a report was
24 generated or a flag was generated, we had the
25 potential to stop the orders for that store until

1 an investigation could be fully fleshed out.

2 Q. That was if a flag was generated by the
3 person you had hired to do investigation --

4 A. Correct.

5 Q. -- with this Supply Logic program?

6 A. Correct. His name was Jason Mullen.

7 Q. And he could do these investigations and
8 he could stop the shipment when that store made an
9 order if he found there was a reason to
10 investigate that store; is that correct?

11 A. That is correct.

12 Q. Now, were there other situations in
13 which you could not necessarily stop a shipment
14 even after you identified an order of interest?

15 A. So the Kayla report was a report that
16 came out the next day after a store had received
17 the order, and that's where that store had already
18 received it. So it afforded the opportunity to
19 investigate at that point and stop future orders
20 it determined to be suspicious and then
21 subsequently reported as required.

22 Q. Did you ever do that, stop future
23 orders?

24 A. We did.

25 Q. And was there anything else you could do

1 even if the order had been started to be filled at
2 the warehouse or even filled at the warehouse and
3 shipped? Had you lost control of the order?

4 A. Because, as stated earlier, Giant Eagle
5 distributed to itself, we were our customer, we
6 knew everything about the characteristics of our
7 store and had control of and control of the
8 product from where it entered into the DC till it
9 left in a prescription for an end user patient.

10 If something needed to be quarantined and
11 removed from dispensing stock, we had the ability
12 to have our stores pull that aside, if necessary,
13 to prevent it from being dispensed.

14 Q. You talked about a visit to Purdue that
15 you made in order to see their practices. Why did
16 Giant Eagle visit Purdue?

17 A. It was a conference call. It was a
18 conference call that we had. And I believe Purdue
19 reached out to us through the purchasing group,
20 put in contact with me for George and I to have a
21 conference call, again, along the lines of the
22 Thrifty White, for example.

23 It was just another example of reaching out
24 to determine what are some other things other
25 organizations -- now Purdue being very different



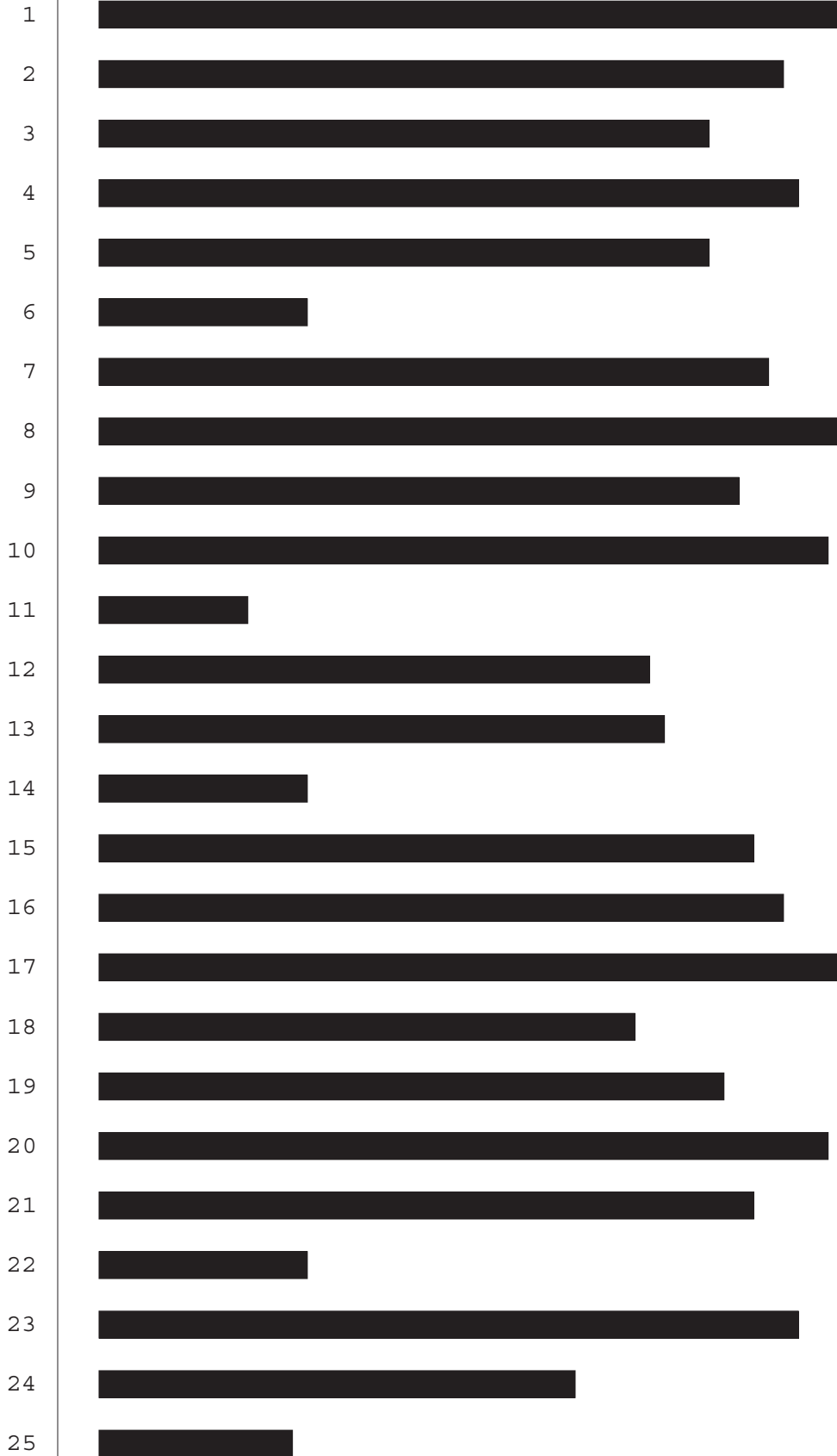












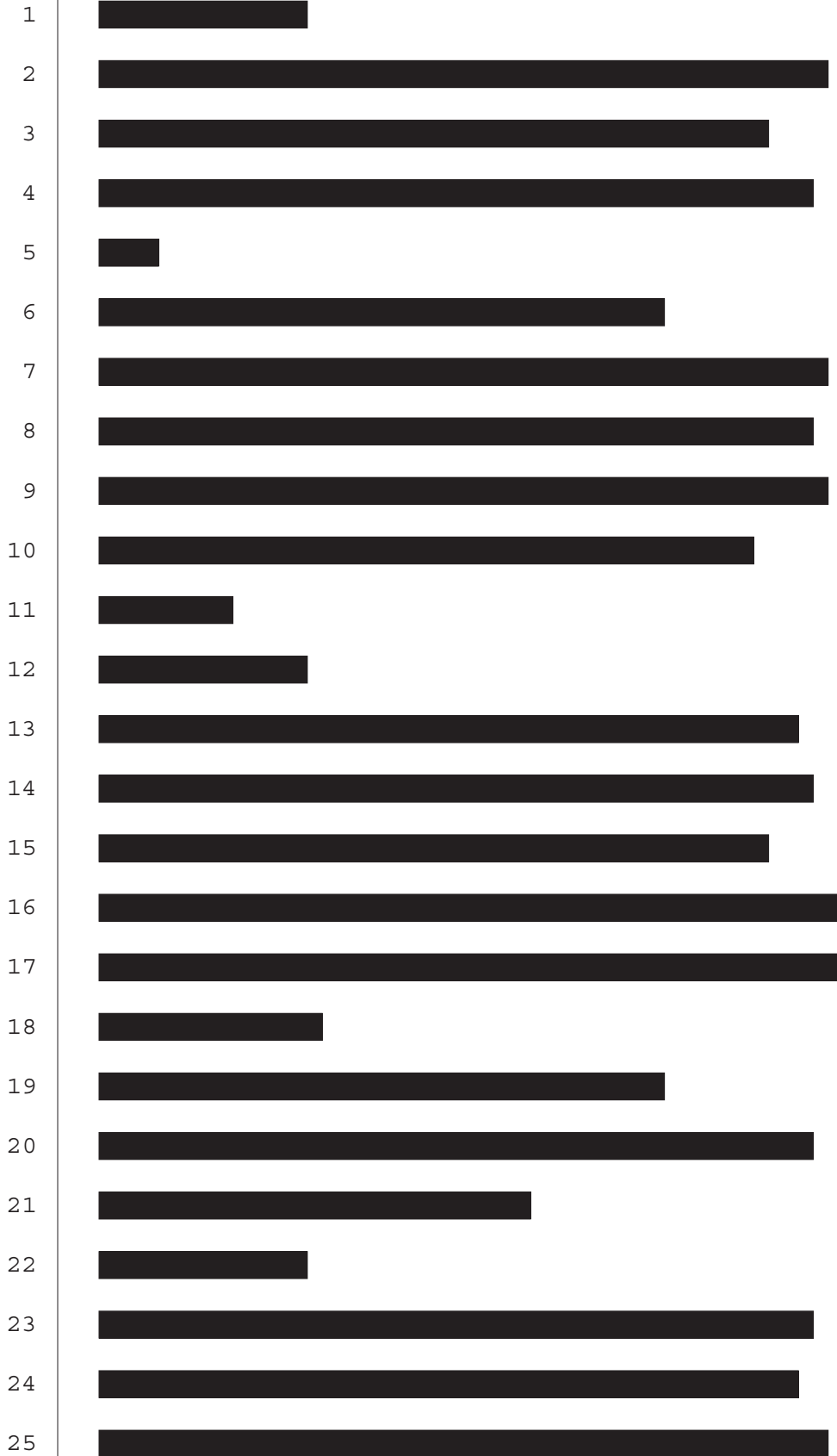




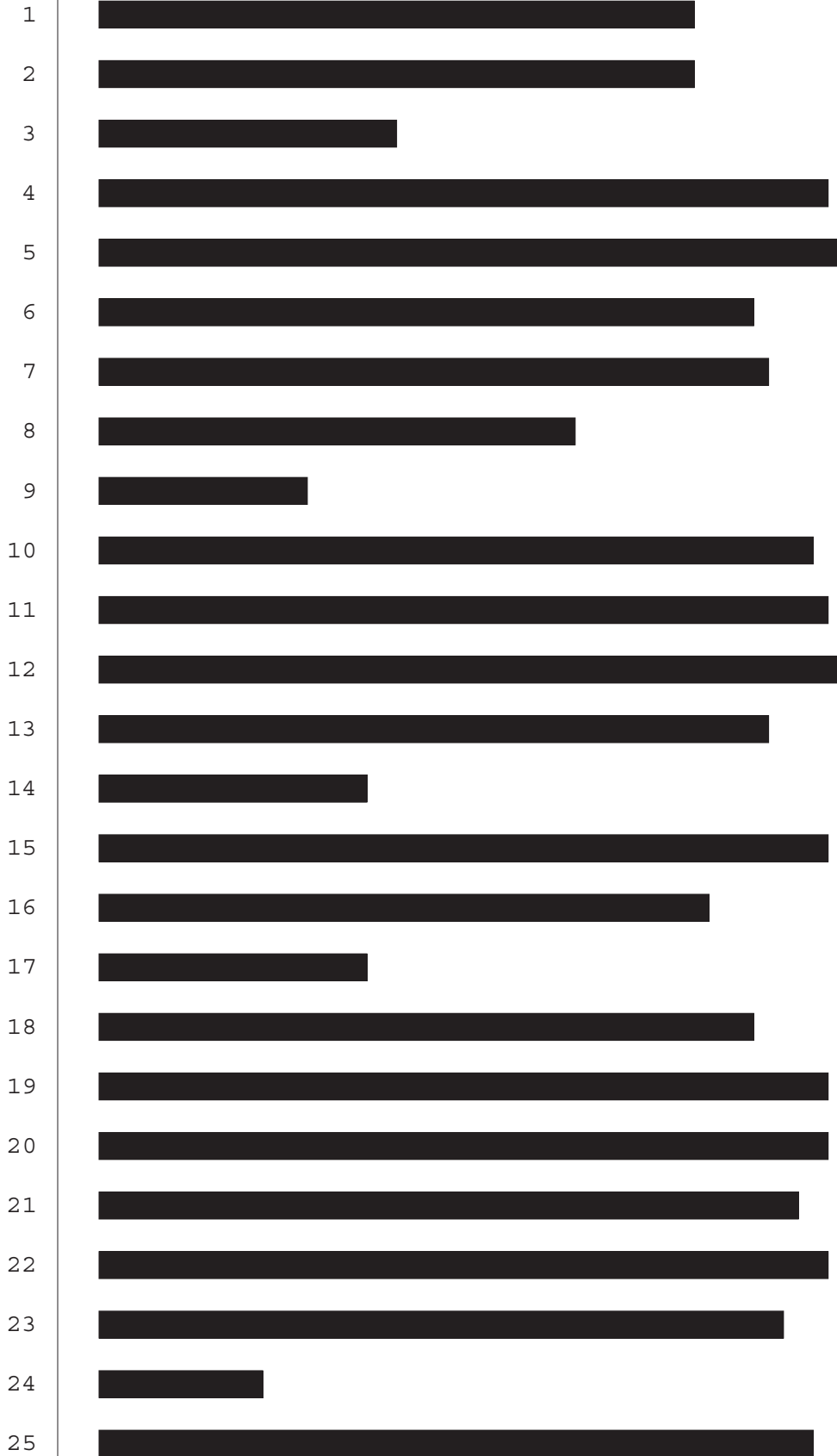




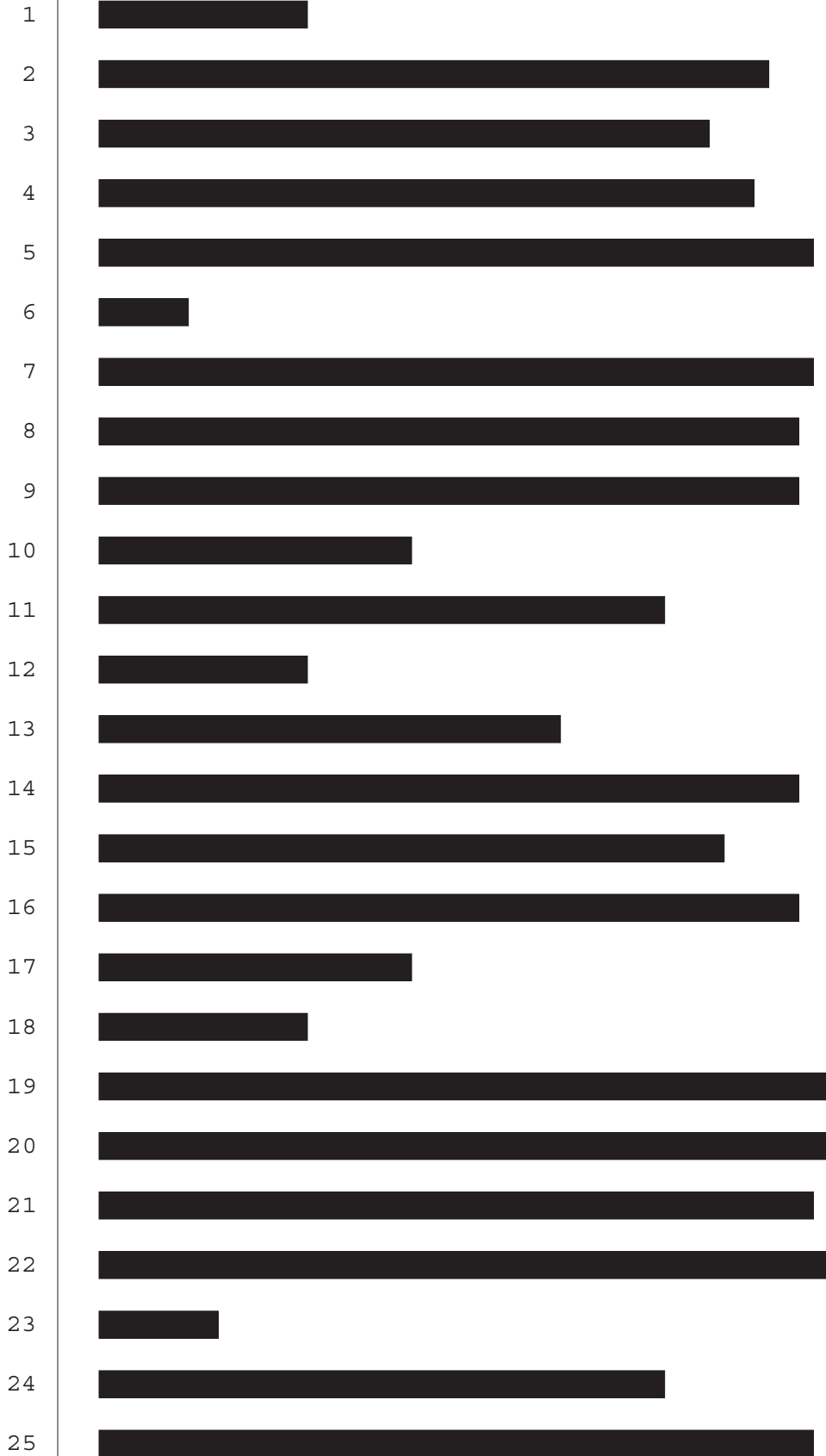












1 [REDACTED]
2 [REDACTED]
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12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 Q. No further questions. Thank you.

23 THE VIDEOGRAPHER: 6:14. We're off the
24 video record. This concludes the video deposition
25 of Joseph Millward.

1 (Whereupon, at 6:14 p.m., the taking of
2 the instant deposition ceased.)
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1 COMMONWEALTH OF PENNSYLVANIA)

2 COUNTY OF ALLEGHENY) SS:

3 C E R T I F I C A T E

4 I, Ann Medis, Registered Professional
5 Reporter, Certified Livenote Reporter and Notary
6 Public within and for the Commonwealth of
7 Pennsylvania, do hereby certify:

8 That JOSEPH E. MILLWARD, the witness
9 whose deposition is hereinbefore set forth, was
10 duly sworn by me and that such deposition is a
11 true record of the testimony given by such
12 witness.

13 I further certify the inspection,
14 reading and signing of said deposition were not
15 waived by counsel for the respective parties and
16 by the witness.

17 I further certify that I am not related
18 to any of the parties to this action by blood or
19 marriage and that I am in no way interested in the
20 outcome of this matter.

21 IN WITNESS WHEREOF, I have hereunto set
22 my hand this 27th day of December, 2018.

23
24 _____
Notary Public
25

COMMONWEALTH OF PENNSYLVANIA) E R R A T A
COUNTY OF ALLEGHENY) S H E E T

I, JOSEPH E. MILLWARD, have read the foregoing pages of my deposition given on December 20, 2018, and wish to make the following, if any, amendments, additions, deletions or corrections:

Line Change and reason for change:

_____	_____	_____
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In all other respects, the transcript is true and correct.

JOSEPH E. MILLWARD

_____ day of _____, 2018.

Notary Public